

12.5 CLAIMS BY THE CONTRACTOR

12.5.1 The Contractor shall make no demand for liquidated damages for delay in any sum in excess of such amount as may be specifically named in this Subcontract, and liquidated damages shall be assessed against this Subcontractor only for his negligent acts and his failure to act in accordance with the terms of this Agreement, and in no case for delays or causes arising outside the scope of this Subcontract, or for which other subcontractors are responsible.

12.5.2 Except as may be indicated in this Agreement, the Contractor agrees that no claim for payment for services rendered or materials and equipment furnished by the Contractor to the Subcontractor shall be valid without prior notice to the Subcontractor and unless written notice thereof is given by the Contractor to the Subcontractor not later than the tenth day of the calendar month following that in which the claim originated.

12.6 CONTRACTOR'S REMEDIES

12.6.1 If the Subcontractor defaults or neglects to carry out the Work in accordance with this Agreement and fails within two (2) working days after receipt of written notice from the Contractor to commence and continue correction of such default or neglect with diligence and promptness, the Contractor may, after two days following receipt by the Subcontractor of an additional written notice, and without prejudice to any other remedy he may have, make good such deficiencies and may deduct the cost thereof from the payments then or thereafter due the Subcontractor, provided, however, that if such action is based upon faulty workmanship or materials and equipment, the Architect shall first have determined that the workmanship or materials and equipment are not in accordance with the Contract Documents.

12.6.2 Subcontractor agrees to keep the Project and the ground appurtenant thereto, free of liens for or on account of any work done or materials furnished in connection with the Subcontractor's work under this AGREEMENT. In the event that a lien is made or claimed against the Project relating to Subcontractor's scope of work from any of the subcontractor's material suppliers or sub-subcontractors, the Subcontractor will, within five (5) days after written notice from the Owner or TEXAS DESCON, L.P. discharge the lien by any legal process as may be necessary, including the posting of a bond to discharge the lien. In the event that Subcontractor so fails to discharge any lien and TEXAS DESCON, L.P. opts to intervene to arrange for discharge of said lien, Subcontractor agrees to pay TEXAS DESCON, L.P. 150% of the amount of the lien and to pay TEXAS DESCON, L.P.'s and Owner's reasonable attorneys' fees and costs incurred in connection with said discharge.

12.6.3 If the Subcontractor (i) refuses or fails to supply a sufficient number of properly skilled workers, or materials or equipment of the proper quality and quantity, (ii) fails or refuses to prosecute the Work with promptness and diligence in order to maintain the schedule for the Work established by Contractor (as said schedule may be revised and amended by Contractor from time to time), (iii) fails or refuses to make prompt payment to its workers, subcontractors or suppliers, or is otherwise unable to meet its debts as they mature, (iv) disregards laws, ordinances, rules, regulations or orders of Contractor, Owner or any public authority having jurisdiction over the Work, (v) causes any stoppage of or interference with the Work of Contractor or any other subcontractors or (vi) otherwise breaches any material provision under this Subcontract, and thereafter Subcontractor fails or refuses to cure such default within 48 hours (or such longer period of time as may be granted by Contractor in its sole discretion) after receipt of written notice from Contractor, then Contractor, without prejudice to any other rights or remedies, shall have the right to any or all of the following remedies:

- a. supply such number of workers and quantity and quality of materials, equipment and other facilities as Contractor deems necessary for the completion of the Subcontractor's Work, or any part thereof which the Subcontractor has failed to complete

or perform after the aforesaid notice and charge the cost thereof to the Subcontractor, who shall be liable for the payment of the same, including reasonable overhead, profit, court costs and attorneys' and paralegals' fees;

- b. provide for the completion of all the Subcontractor's Work by others and charge the costs thereof to the Subcontractor;
- c. withhold payment of any monies due to Subcontractor under this Subcontract or any other agreement between Subcontractor and Contractor pending corrective or curative action to the extent required by and to the satisfaction of Contractor; and
- d. In the event of an emergency affecting the safety of persons or property, Contractor may proceed as above without notice to Subcontractor.

12.6.4 In addition to the above-noted remedies, if Subcontractor fails to cure any default within the above-noted time period, then Contractor may, in lieu, or in addition to the remedies noted above, terminate Subcontractor's employment under this Subcontract by delivering written notice of termination to Subcontractor. Thereafter, Contractor may take possession of the plant and Work, materials, tools, appliances and equipment of Subcontractor at the building site, and through himself or others, provide labor, equipment and materials to prosecute Subcontractor's Work on such terms and conditions as Contractor may deem appropriate, and Contractor shall deduct the cost thereof, including all charges, expenses, losses, costs, damages and attorneys' and paralegals' fees, incurred by Contractor as a result of Subcontractor's failure to perform, from any money then due or thereafter become due Subcontractor either under this Subcontract or under any other agreement between Subcontractor and Contractor. The Subcontractor shall be liable for the payment of any amount by which such costs may exceed the unpaid balance of the Subcontract Price. The Contractor may use any materials, implements, equipment, appliances or tools furnished by or belonging to the Subcontractor to complete the Subcontractor's Work. The Subcontractor hereby agrees that, upon such termination of its employment, the Subcontractor automatically shall offer an assignment to the Contractor of any oral subcontracts and purchase orders, which the Subcontractor previously entered into, for the Contractor's sole discretionary acceptance.

12.6.5 Notwithstanding anything in this Subcontract to the contrary, any default by Subcontractor under this Subcontract may, at TEXAS DESCON, L.P.'s sole option, be deemed to be a default by Subcontractor under any other agreements between Contractor and Subcontractor, and any default by Subcontractor under any other agreements between Contractor and Subcontractor may, at TEXAS DESCON, L.P.'s sole option, be deemed to be a default by Subcontractor under this Subcontract. In any event of default, whether under this Agreement or any other agreement between Contractor and Subcontractor, Contractor shall have the right of offset against any sums otherwise due Subcontractor under this Agreement or any other agreement between Contractor and Subcontractor.

12.6.6 TEXAS DESCON, L.P. may terminate this Agreement without cause, in whole or in part at any time upon ten (10) days notice thereof to the Subcontractor. Any provisions of this Agreement which, by their nature, would survive final acceptance of the work shall remain in full force and effect after the termination to the extent provided in such provisions. Upon such termination, any obligations to the Subcontractor shall continue as to portions of the work already performed prior to the date of termination. Upon such termination, TEXAS DESCON, L.P. shall reimburse Subcontractor for any approved but unpaid portions of the work incurred by the Subcontractor, together with any withheld retainage to the date of termination. However, no such payment will be made to the Subcontractor until TEXAS DESCON, L.P. is paid by the Owner for the said portions of the Subcontractor's work.

ARTICLE 13 ARBITRATION

13.1 All claims, disputes and other matters in question arising out of, or relating to, this Subcontract, or the breach thereof, shall be decided by arbitration, which shall be conducted in the same manner and under the same procedure as provided in the Contract Documents with respect to disputes between the Owner and the Contractor, except that a decision by the Architect shall not be a condition precedent to arbitration. If the Contract Documents do not provide for arbitration or fail to specify the manner and procedure for arbitration, it shall be conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining unless the parties mutually agree otherwise.

13.2 Except by written consent of the person or entity sought to be joined, no arbitration arising out of or relating to the Contract Documents shall include, by consolidation, joinder or in any other manner, any person, or entity not a party to the Agreement under which such arbitration arises, unless it is shown at the time the demand for arbitration is filed that (1) such person or entity is substantially involved in a common question of fact or law, (2) the presence of such person or entity is required if complete relief is to be accorded in the arbitration, (3) the interest or responsibility of such person or entity in the matter is not insubstantial, and (4) such person or entity is not the Architect, his employee or his consultant. This agreement to arbitrate and any other written agreement to arbitrate with an additional person or persons referred to herein shall be specifically enforceable under the prevailing arbitration law.

13.3 The Contractor shall permit the Subcontractor to be present and to submit evidence in any arbitration proceeding involving his rights

13.4 The Contractor shall permit the Subcontractor to exercise whatever rights the Contractor may have under the Contract Documents in the choice of arbitrators in any dispute, if the sole cause of the dispute is the Work, materials, equipment, rights or responsibilities of the Subcontractor; or if the dispute involves the Subcontractor and any other subcontractor or subcontractors jointly, the Contractor shall permit them to exercise such rights jointly.

13.5 The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

13.6 This Article shall not be deemed a limitation of any rights or remedies which the Subcontractor may have under any Federal or State mechanics' lien laws or under any applicable labor and material payment bonds unless such rights or remedies are expressly waived by him.

ARTICLE 14 TERMINATION

14.1 TERMINATION BY THE SUBCONTRACTOR

14.1.1 If the Work is stopped for a period of thirty days through no fault of the Subcontractor because the Contractor has not made payments thereon as provided in this Agreement, then the Subcontractor may without prejudice to any other remedy he may have, upon seven additional days' written notice to the Contractor, terminate this Subcontract and recover from the Contractor payment for all Work executed and for any proven loss resulting from the stoppage of the Work, including reasonable overhead, profit and damages.

14.2 TERMINATION BY THE CONTRACTOR SEE EXHIBIT SEVEN ATTACHED.

14.2.1 If the Subcontractor persistently or repeatedly fails or neglects to carry out the Work in accordance with the Contract Documents or otherwise to perform in accordance with this Agreement and fails within seven days after receipt of written notice to commence and continue correction of such default or neglect with diligence and promptness, the Contractor may, after seven days following receipt by the Subcontractor of an additional written notice, proceed to any other remedy he may have, terminate this Subcontract and finish the Work by whatever method he may deem expedient. If the unpaid balance of the Contract Sum exceeds the expense of finishing the Work, such excess shall be paid to the Subcontractor, but if such expense exceeds such unpaid balance, the Subcontractor shall pay the difference to the Contractor.

ARTICLE 15 MISCELLANEOUS PROVISIONS

15.1 Terms used in this Agreement which are defined in the Conditions of the Contract shall have the meanings designated in those Conditions.

15.2 The Contract Documents, which constitute the entire Agreement between the Owner and the Contractor, are listed in Article 1, and the documents which are applicable to this Subcontract, except for Addenda and Modifications issued after execution of this Subcontract, are enumerated as follows:

(List below the Agreement, the Conditions of the Contract [General, Supplementary, and other Conditions], the Drawings, the Specifications, and any Addenda and accepted Alternates, showing page or sheet numbers in all cases and dates where applicable. Continue on succeeding pages as required.)

SEE EXHIBIT EIGHT ATTACHED

This Agreement entered into as of the day and year first written above.

CONTRACTOR:

TEXAS DESCON, L.P.

By DESCON 48, L.L.C., Its General Partner

Michael D. Smith, President

Date: 1/24/11

SUBCONTRACTOR:

VCI Builders

(Signature)

Date: 1/24/11

EXHIBIT ONE

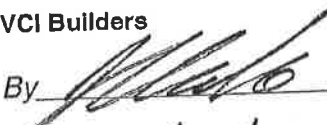
3.4

The subcontractor shall provide delivery dates for materials related to the scope of the work covered under this contract from all applicable suppliers and vendors. This information is required in a written confirmation format five (5) days after submittal is approved by the architect. Any deviation from the dates provided by the subcontractor shall require ample notice to the general contractor so that the subcontractor will not be held liable under the provisions of Article Three of this subcontract.

VCI Builders

By

Date


1/24/11

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EXHIBIT TWO

CONTINUATION SHEET

Application and certificate for Payment, containing Contractor's signed Certification is attached. In tabulations below, amounts are stated to the nearest dollar. Use column I on Contracts where variable retainage for line items apply.

APPLICATION NO:

APPLICATION DATE:

PERIOD TO:

SUBCONTRACT NO.: 10-026-02050

PROJECT: 026 PSJA T-Stem Early College High School Additions and Renovations

[illegible]

APPLICATION AND CERTIFICATE FOR PAYMENT

EXHIBIT THREE

TO: TEXAS DESCON, L.P.
P.O. Box 3547
McAllen, Texas 78502

PROJECT: 026 PSJA T-Stem Early College High School Additions and Renovations
Pharr, Texas

FROM: VCI Builders
(Subcontractor) P.O. Box 4637
Mission, TX 78573

ARCH: ERO, International, LLP
300 South 8th Street
McAllen, TX 78501

APPLICATION NO. _____
PERIOD TO: _____
PROJECT # 2010-026
CONTRACT NO.: 10-026-02050
CONTRACT FOR: Select Demolition

CHANGE ORDER SUMMARY		ADDITIONS	DEDUCTIONS
Change Orders approved in Previous months by			
Approved this Month			
Number	Date Approved		
TOTALS			
Net Change by Change Orders			

Continuation Sheet is Attached

1. ORIGINAL CONTRACT SUM **\$27,000.00**

2. NET CHANGE BY CHANGE ORDERS

3. CONTRACT SUM TO DATE

4. TOTAL COMPLETED AND STORED TO DATE

5. RETAINAGE

a. 5% of Completed Work (Col. D + E)

b. 5% Stored Material

Total Retainage (Line 5a + 5b or Total in Col. I)

6. TOTAL EARNED LESS RETAINAGE

7. LESS PREVIOUS CERTIFICATES FOR PAYMENT

8. CURRENT PAYMENT DUE

9. BALANCE TO FINISH, PLUS RETAINAGE (Line 3 less line 6)

STATE OF: _____ COUNTY OF: _____

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public: _____

My Commission Expires: _____

VCI Builders

By: _____ Date _____

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the subcontractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

EXHIBIT FOUR

It is agreed that TEXAS DESCON, L.P., the General Contractor for the 026 PSJA T-Stem Early College High School Additions and Renovations, Pharr, Texas, project shall withhold from VCI Builders, the subcontractor, any insurance premiums deemed necessary should the Sub-Contractor not provide General Liability and/or Worker's Compensation insurance or should said insurance policies expire during the term of the contract as set forth in Article 9, Section 9.2 of said contract for the period of the expiration of said policies.

Acknowledged and agreed to this 24th day of January, 2014.

VCI Builders

Signature: 

Print Name: Jose Luis Arredondo

EXHIBIT FIVE

ACORD CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY) 01/19/2007
PRODUCER	FAX	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
INSURED Subcontractor's Name, Address, City, St, Zip		
INSURERS AFFORDING COVERAGE		NAIC #
INSURER A: An "A-7" rated or better by A.M.		Best Co
INSURER B:		
INSURER C:		
INSURER D:		
INSURER E:		

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSURANCE TYPE	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
GENERAL LIABILITY	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				EACH OCCURRENCE \$ 1,000,000
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				DAMAGE TO RENTED PREMISES (EA OCCURRENCE) \$ 50,000
					MED EXP (Any one person) \$ 5,000
					PERSONAL & ADV INJURY \$ 1,000,000
					GENERAL AGGREGATE \$ 2,000,000
GEN'L AGGREGATE LIMIT APPLIES PER:					PRODUCTS - COMPIOP AGG \$ 2,000,000
AUTOMOBILE LIABILITY	<input type="checkbox"/> ANY AUTO				COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input checked="" type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per person) \$
	<input type="checkbox"/> SCHEDULED AUTOS				BODILY INJURY (Per accident) \$
	<input checked="" type="checkbox"/> HIRED AUTOS				PROPERTY DAMAGE (Per accident) \$
	<input checked="" type="checkbox"/> NON-OWNED AUTOS				
GARAGE LIABILITY	<input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$
					OTHER THAN EA ACC \$
EXCESS/UMBRELLA LIABILITY	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AUTO ONLY: AGG \$
					EACH OCCURRENCE \$
					AGGREGATE \$
					\$
					\$
WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER \$
	If yes, describe under SPECIAL PROVISIONS below				E.L. EACH ACCIDENT \$ 500,000
					E.L. DISEASE - EA EMPLOYEE \$ 500,000
					E.L. DISEASE - POLICY LIMIT \$ 500,000
OTHER					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 Texas Descon L.P. is listed as an Additional Named Insured using CG2033-Additional Insured-Owners, Lessees, or Contractors-Automatic Status when required in a Construction Contract Agreement with you, will be named with a Waiver of Subrogation for CGL, Commercial Auto Coverage and Workers Compensation. Subcontractors policy will be deemed as Primary and Non-Contributory with regard to Texas Descon L.P. interests. Cancellation provisions allow 30 day prenotification to certificateholder.

CERTIFICATE HOLDER	CANCELLATION
Texas Descon L.P. PO Box 3547 McAllen, TX 78502	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.
	AUTHORIZED REPRESENTATIVE

EXHIBIT SIX

11.11 INDEMNIFICATION

11.11.1 To the fullest extent permitted by law, the Subcontractor shall indemnify and hold harmless the Owner, the Architect and the Contractor and all of their agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from the performance of the Subcontractor's Work under this Subcontract, provided that any such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom, to the extent caused in whole or in part by any negligent act or omission of the Subcontractor or anyone directly or indirectly employed by him or anyone for whose acts he may be liable, regardless of whether it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, or abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph 11.11. The indemnity applies to any claims or causes of action arising in tort or contract. Further, the parties agree that this Indemnification obligation meets the requirements of the express negligence doctrine as set forth in the Texas Supreme Court case of *Ethyl Corp. v. Daniel Const. Co.*, 725 S.W. 2d 705 (Tex. 1987) and the conspicuousness doctrine as set forth in *Dresser Industries, Inc. v. Page Petroleum, Inc.* 853 S.W.2d 505 (Tex. 1993).

11.11.2 In any and all claims against the Owner, the Architect, or the Contractor or any of their agents or employees by any employee of the Subcontractor, anyone directly or indirectly employed by him or anyone for whose acts he may be liable, the indemnification obligation under this Paragraph 11.11 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

11.11.3 The obligations of the Subcontractor under this Paragraph 11.11 shall not extend to the liability of the Architect, his agents or employees arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications, or (2) the giving of or the failure to give directions or instructions by the Architect, his agents or employees provided such giving or failure to give is the primary cause of the injury or damage.

EXHIBIT SEVEN

14.2 TERMINATION BY THE CONTRACTOR

14.2.1 *If the subcontractor fails or neglects to carry out the work in accordance with the contract documents or otherwise to perform in accordance with this agreement and fails within forty-eight (48) hours after receipt of written notice to commence correction of such default or neglect with diligence and promptness, the contractor may without any additional written notice and without prejudice to any other remedy he may have, terminate the subcontract and finish the work by whatever method he may deem expedient. If the unpaid balance of the contract sum exceeds the expense of finishing the work, such excess shall be paid to the subcontractor, but if such expense exceeds such unpaid balance, the subcontractor shall pay the difference to the contractor.*

**EXHIBIT EIGHT
PROJECT SPECIFICATIONS, PLANS AND ADDENDA**

SPECIFICATIONS:

The Specifications are those contained the Project Manual entitled "PSJA ISD T-Stem Early College High School (Old Memorial Middle School) – Phase I Renovations and Additions, dated March 01, 2010, and are as follows:

**PSJA ISD T-STEM EARLY COLLEGE HIGH SCHOOL
(Old Memorial Middle School)
PHASE I – RENOVATIONS & ADDITIONS
PROJECT Numbers 09007 – PSJA ISD CSP #09-10-008
Pharr, Texas**

**VOLUME I
Project Information, Architectural and Structural Divisions**

**SECTION 00 0111
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**DOCUMENTS DIVISION 0 – INTRODUCTORY INFORMATION,
BIDDING REQUIREMENTS, AND CONTRACT REQUIREMENTS**

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00 0110 – TABLE OF CONTENTS

00 0115 – LIST OF DRAWINGS

**PSJA ISD INVITATION TO SUBMIT BID / PROPOSAL AND
SPECIAL CONDITIONS**

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1. Bid Preparation and Submission Procedures
2. Statement of Inclusion / Applicability
3. General
4. Contract Time Period
5. Addendum
6. Specifications
7. Bid Evaluation and Award
8. Quantities
9. Packaging
10. Pricing
11. Sales Tax
12. Delivery and Transportation
13. Quality
14. Product Inspection, Testing and Defective Items
15. Samples
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17. Withdrawal or Modification of Bid
18. Substitutions
19. Deviations from Item Specification or General Terms and Conditions
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22. Remedies for Non-Performance of Contract, and Termination of Contract
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24. Non-Collusion Certification
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27. Equal Employment Opportunity (EEO) Disclosures
28. Venue
29. Indemnification
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32. Vendor Year 2000 Compliance
33. Waiver
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35. Right to Assurance
36. Extension / Non-Appropriation Clause
37. Proposal Acceptance
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39. Installation (When applicable)
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PSJA ISD FORMS

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2. Form B: Deviations/Compliance signature Page
3. Form C: Felony Convictions Disclosure Statement
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5. Form E: Conflict of Interest Questionnaire
6. Form F: Suspension or Debarment
7. Form G: Historically Underutilized Business (HUB)
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12. Form L: Instruction to School District Contractors
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PROVIDED CONSULTANT AND SPECIFICATIONS)

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- 01 2000 – PRICE AND PAYMENT PROCEDURES
- 01 2100 – ALLOWANCES
- 01 2200 – UNIT PRICES
- 01 2300 – ALTERNATIVES
- 01 3000 – ADMINISTRATIVE REQUIREMENTS
- 01 3216 – CONSTRUCTION PROGRESS SCHEDULE
- 01 4000 – QUALITY REQUIREMENTS
- 01 5000 – TEMPORARY FACILITIES
- 01 5713 – TEMPORARY EROSION
- 01 6000 – PRODUCT REQUIREMENTS
- 01 7000 – EXECUTION AND CLOSEOUT REQUIREMENTS
- 01 7419 – CONSTRUCTION WASTE MANAGEMENT AND DISPOSAL
- 01 7800 – CLOSEOUT SUBMITTALS

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CONSULTING ENGINEERS, LLC

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03 1000 – CONCRETE FORMING AND ACCESSORIES
(FLA)

03 2000 – CONCRETE REINFORCING (FLA)
03 3000 – CAST-IN-PLACE CONCRETE (FLA)
03 3900 – CONCRETE CURING (FLA)
03 5216 – LIGHTWEIGHT INSULATING CONCRETE
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04 2000 – UNIT MASONRY
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08 1433 – STILE AND RAIL WOOD DOORS
08 3100 – ACCESS DOORS AND PANELS

08 3323 – OVERHEAD COILING DOORS
08 4100 – ALUMINUM ENTRANCES AND
STOREFRONTS
08 4410 – GLAZED ALUMINUM CURTAIN WALL
08 5213 – ALUMINUM CLAD WOOD DOUBLE HUNG
WINDOWS
08 7100 – DOOR HARDWARE & HARDWARE
SCHEDULE (Assa/Abloy)
08 8100 – GLASS
08 8300 – MIRRORS

DIVISION 9 – FINISHES

09 2116 – GYPSUM BOARD ASSEMBLIES
09 3000 – TILING
09 3001 – TILE EDGE PROTECTION
09 5100 – SUSPENDED ACOUSTICAL CEILINGS
09 5114 – FABRIC FACED ACOUSTICAL CEILINGS
09 5470 – METAL TILE CEILING SYSTEMS
09 5700 – ACOUSTICAL WOOD CEILING SYSTEM
09 6423 – HARDWOOD FLOORING – ADHESIVE
APPLIED
09 6500 – RESILIENT FLOORING (RUBBER)
09 6501 – RESILIENT (RUBBER) FLOOR TILE, BASE
AND STAIR TREADS
09 6800 – CARPETING
09 9000 – PAINTING AND COATING

DIVISION 10 – SPECIALTIES

10 1101 – VISUAL DISPLAY BOARDS
10 1424 – PLASTIC SIGNS
10 2113 – PLASTIC TOILET COMPARTMENTS
10 2123 – CUBICLES
10 2601 – WALL AND CORNER GUARDS
10 2813 – TOILET ACCESSORIES
10 4260 – CAST METAL PLAQUES
10 4400 – FIRE EXTINGUISHERS, CABINETS AND
ACCESSORIES
10 5613 – METAL STORAGE SHELVING
10 7500 – FLAGPOLES

DIVISION 11 – EQUIPMENT

11 0500 – LIBRARY ARTICLE SURVEILLANCE
SYSTEM
11 5213 – PROJECTION SCREENS

DIVISION 12 – FURNISHINGS

12 2113 – HORIZONTAL LOUVER BLINDS
12 4940 – ROLLER SHADES

DIVISION 13 – SPECIAL CONSTRUCTION – NOT USED

DIVISION 14 – CONVEYING SYSTEMS

14 2100 – ELECTRICAL TRACTION ELEVATORS

DIVISION 21 – FIRE SUPPRESSION – SEE NOTE BELOW

DIVISION 22 – PLUMBING – SEE NOTE BELOW

DIVISION 23 – HEATING, VENTILATING AND

AIRCONDITIONING – SEE NOTE BELOW

DIVISION 26 – ELECTRICAL- SEE NOTE BELOW

DIVISION 27 – COMMUNICATION – SEE NOTE BELOW

**DIVISION 28 – ELECTRONIC SAFETY AND SECURITY – SEE
NOTE BELOW**

NOTE: Reference Project Manual Volume III for Technical
Specification Index for Mechanical, Electrical & Plumbing
Specifications provided by MEPSE (MEP Solutions Engineering)

SPECIFICATIONS FOR ASBESTOS ABATEMENT (ENVIROTEST)

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APPENDIX A: DEFINITIONS (ENVIROTEST)

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APPENDIX C: ACM SURVEY (ENVIROTEST)

PSJA ISD T-STEM EARLY COLLEGE HIGH SCHOOL
(Old Memorial Middle School)
PHASE I – RENOVATIONS & ADDITIONS
PROJECT Numbers 09007 – PSJA ISD CSP #09-10-006
Pharr, Texas

VOLUME II
CIVIL SPECIFICATIONS DIVISIONS

TECHNICAL SPECIFICATIONS INDEX

TXR 150000 TPDES General Permit
Section 6 Bedding and Backfill
Section 11 Trench Excavation and Shoring Safety Plan
Section 02000 – Special Project Conditions
Section 02102 – Clearing And Grubbing
Section 02221 – Trench Excavation And Shoring Safety Plan
Section 02224 – Pipe Boring, Drilling And Jacking
Section 02240 – Lime Stabilization
Section 02435 – Reinforced Concrete Drainage Pipe
Section 02556 – Water Transmission Lines and/or Pressure Sewer Lines
Section 02570 – Sanitary Sewer
Section 02580 – Storm Sewer Appurtenances
Section 02602 – Fiberglass Manholes and Wetwells
Section 02660 – Concrete Curb and Gutter and Valley Gutters
Section 02780 – Flat Wheel Rolling
Section 02910 – Construction Traffic Control
Section 02920 – Trench Protection System
Section 03300 – Cast-In-Place Concrete
Section 03330 – Reinforcing Steel
Section 15100 – Valves and Appurtenances

TXDOT 1993 STANDARD SPECIFICATIONS
Item 433 – Joint Sealants and Fillers

TX DOT 1994 STANDARD SPECIFICATIONS
Item 110 – Excavation
Item 132 – Embankment
Item 160 – Topsoil
Item 164 – Seeding for Erosion Control
Item 168 – Vegetative Watering
Item 247 – Flexible Base
Item 251 – Reworking Base Courses
Item 300 – Asphalts, Oils and Emulsions
Item 301 – Asphalt Anti-Stripping Agents
Item 310 – Prim Coat
Item 340 – Dense-Graded Hot Mix Asphalt (Method)
Item 351 – Flexible Pavement Structure Repair
Item 360 – Concrete Pavement
Item 420 – Concrete Structures
Item 421 – Hydraulic Cement Concrete
Item 423 – Retaining Wall
Item 427 – Surface Finishes for Concrete
Item 432 – Riprap
Item 450 – Railing
Item 465 – Manholes and Inlets
Item 466 – Headwalls and Wingwalls
Item 479 – Adjusting Manholes and Inlets
Item 631 – Sidewalks
Item 666 – Reflectorized Pavement Markers
Item 672 – Raised Pavement Markers
Item 678 – Pavement Surface Preparation for Markings

THESE SPECIFICATIONS ARE INTENDED TO COVER ALL CIVIL WORK RELATED WITH THE PSJA ISD T-STEM EARLY COLLEGE HIGH SCHOOL (OLD MEMORIAL MIDDLE SCHOOL) PHASE I RENOVATIONS AND ADDITIONS PROJECT. THE CONTRACTOR SHALL REFER TO ELECTRICAL MECHANICAL, PLUMBING AND ARCHITECTURAL SPECIFICATIONS FOR WORK NOT COVERED WITHIN.

PSJA ISD T-STEM EARLY COLLEGE HIGH SCHOOL - PHASE I
RENOVATIONS & ADDITIONS
Pharr, Texas

VOLUME III
PLUMBING, MECHANICAL, ELECTRICAL, COMMUNICATIONS, AND ELECTRONIC SAFETY AND
SECURITY SPECIFICATION DIVISIONS

NOTE: REFERENCE

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21 1313 FIRE PROTECTION SYSTEM

DIVISION 22 – PLUMBING

22 0510 PLUMBING GENERAL REQUIREMENTS
22 0515 MATERIALS AND METHODS
22 0523 VALVES
22 0529 HANGERS AND SUPPORTS
22 0553 PLUMBING IDENTIFICATION
22 0713 PLUMBING INSULATION
22 1116 DOMESTIC WATER PIPING
22 1316 SANITARY WASTE AND VENT PIPING
22 1413 STORM DRAINAGE PIPING
22 1429 SUMP PUMPS
22 3300 ELECTRIC WATER HEATERS
22 4210 PLUMBING FIXTURES
22 4250 PLUMBING SPECIALTIES
22 4700 DRINKING FOUNTAINS

DIVISION 23 – HEATING VENTILATING AND AIR CONDITIONING

23 0510 MECHANICAL GENERAL REQUIREMENTS
23 0515 MATERIALS AND METHODS
23 0523 VALVES
23 0529 HANGERS AND SUPPORTS
23 0548 VIBRATION AND SEISMIC CONTROLS
23 0553 MECHANICAL IDENTIFICATION
23 0593 TESTING, ADJUSTING AND BALANCING FOR HVAC
23 0713 HVAC INSULATION
23 0900 INSTRUMENTATION AND CONTROLS
23 0950 VARIABLE FREQUENCY CONTROLLERS
23 2113 HYDRONIC PIPING
23 2123 HYDRONIC PUMPS
23 2500 HVAC WATER TREATMENT
23 3113 METAL DUCTS
23 3300 DUCT ACCESSORIES
23 3423 POWER VENTILATORS
23 3600 AIR TERMINAL UNITS
23 3713 DIFFUSERS, REGISTERS, AND GRILLES
23 6423 SCROLL WATER CHILLERS
23 7313 MODULAR INDOOR AIR-HANDLING UNITS
23 8127A DX AIR-HANDLING UNITS
23 8127B DX CONDENSING UNITS
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26 0519 LOW-VOLTAGE ELECTRICAL POWER
CONDUCTORS AND CABLES
26 0526 GROUNDING AND BONDING FOR ELECTRICAL
SYSTEMS
26 0533 RACEWAYS AND BOXES FOR ELECTRICAL
SYSTEMS
26 0536 CABLE TRAYS FOR ELECTRICAL SYSTEMS
26 0544 SLEEVES AND SLEEVE SEALS FOR ELECTRICAL
RACEWAYS AND CABLING
26 0553 IDENTIFICATION FOR ELECTRICAL SYSTEMS
26 0923 LIGHTING CONTROL DEVICES AND CABLE
26 2200 LOW-VOLTAGE TRANSFORMERS
26 2413 SWITCHBOARDS
26 2416 PANELBOARDS
26 2726 WIRING DEVICES
26 2813 FUSES
26 2816 ENCLOSED SWITCHES AND CIRCUIT BREAKERS
26 3213 ENGINE GENERATORS
26 3600 TRANSFER SWITCHES
26 4313 TRANSIENT-VOLTAGE SUPPRESSION FOR LOW-
VOLTAGE ELECTRICAL POWER CIRCUITS
26 5100 INTERIOR LIGHTING
26 0573 OVERCURRENT PROTECTIVE DEVICE
COORDINATION STUDY
26 5600 EXTERIOR LIGHTING

DIVISION 27 COMMUNICATIONS

27 5173 EDUCATIONAL INTERCOMMUNICATIONS AND
PROGRAM SYSTEMS

DIVISION 28 – ELECTRONIC SAFETY

28 1300 ACCESS CONTROL
28 3111 DIGITAL ADDRESSABLE FIRE-ALARM SYSTEM

SPECIFICATIONS FOR ASBESTOS ABATEMENT

(ENVIROTEST)

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PLANS

The Plans/Drawings are entitled "PSJA ISD T-STEM EARLY COLLEGE HIGH SCHOOL (Old Memorial Middle School) – PHASE I RENOVATIONS & ADDITIONS, are sealed and dated February 24, 2010, unless a different date is shown or they were added by Addenda.

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GI101 Code Analysis
GI201 Accessibility Requirements
GI202 Accessibility Requirements
GI203 Accessibility Requirements

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VS 101 Owner-Provided Site Survey

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AD102 Enlarged Site Demolition Plan
AD103 Enlarged Site Demolition Plan
AD104 Site Demolition Photos
AD105 Band Hall and Dressing Room Demolition Photos
AD201 Composite Demolition Building Plan
AD202 Demolition Basement Floor Plans
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AD204 Demolition First Floor Plan–Area "A" (Core)
AD205 Demolition First Floor Plan–Area "B" & "C" East & West Wings
AD206 Demolition First Floor Plan–Area "B" & "C" East & West Wings
AD207 Composite Second Floor Demolition Plan
AD208 Demolition Second Floor Plan–Area "A" (Core)
AD209 Demolition Second Floor Plan–Area "B" & "C" East & West Wings
AD210 Composite Demolition Roof Plan
AD211 Demolition Roof Photos
AD301 Demolition Exterior Elevations & Photos – North
AD302 Demolition Exterior Elevations & Photos – East
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AD307 Demolition Building Sections & Photos
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AD310 Demolition Building Sections & Photos
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DE102 Demolition Electrical Lighting – First Floor Plan
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DE104 Demolition Electrical Lighting – Second Floor Plan
DE105 Demolition Electrical Power – Basement Floor Plan
DE106 Demolition Electrical Power – First Floor Plan
DE107 Demolition Electrical Power – First Floor Plan
DE108 Demolition Electrical Power – Second Floor Plan
DP101 Demolition Plumbing – Basement Floor Plan
DP102 Demolition Plumbing – First Floor Plan
DP103 Demolition Plumbing – First Floor Plan
DP104 Demolition Plumbing – Second Floor Plan

CIVIL**PEREZ CONSULTING ENGINEERS: VOLUME II**

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CE102 Dimension Control Plan
CE103 Dimension Control Plan
CE104 Grading & Drainage Plan
CE105 Grading & Drainage Plan
CE106 Utility Plan
CE107 Plan & Profile
CE108 Plan & Profile
CE109 Plan & Profile
CE110 Fir Street/U.S. Business 83 Intersection Layout
CE111 Civil Details
CE112 Civil Details
CE113 Civil Details
CE114 Civil Details
CE115 Civil Details
CE116 Civil Details
CE117 Civil Details
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CE122 TXDOT Standard Details

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AS102 Enlarged Architectural Site Plan
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AE106 First Floor Area "D" Library
AE107 Composite Second Floor Plan
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AE111 Basement Reflected Floor Plan
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AE115 First Floor Area "D" Library –Reflected Ceiling Plan
AE116 Composite Second Floor Plan-Reflected Ceiling Plan
AE117 Second Floor Plan–Area "A" (Core)-Reflected Ceiling Plan
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AE202 South and East Exterior Building Elevations
AE203 Interior Elevations and Details
AE204 Interior Elevations and Details
AE205 Interior Elevations and Details
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AE302 Building Sections
 AE303 Building Sections
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 AE307 Details
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 AE309 Details
 AE310 Details
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 AE315 Partition Types
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 AE402 Enlarged Toilet Room Plans and Elevations
 AE403 Enlarged Classroom Plans and Elevations
 AE404 Enlarged Classroom Plans and Elevations
 AE405 Enlarged Classroom Plans and Elevations
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MECHANICAL, ELECTRICAL, PLUMBING
MEP SOLUTIONS ENGINEERING: VOLUME II

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 EP105 Electrical Power – Basement Floor Plan
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 EP107 Electrical Power – First Floor Plan
 EP108 Electrical Power – Second Floor Plan
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 EP110 Electrical –Mechanical and Plumbing Equipment Location- Basement Floor Plan
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 EP112 Electrical –Mechanical and Plumbing Equipment Location- First Floor Plan
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 EP201 Electrical Legend
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 EP206 Electrical Panel Schedules
 EP207 Electrical Panel Schedules
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 PL105 Plumbing HW/CW – Basement Floor Plan
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 PL108 Plumbing HW/CW – First Floor Plan
 PL201 Plumbing Roof - Floor Plan
 PL301 Plumbing Details
 PL401 Plumbing Schedules

ADDENDA

There were four (4) Addenda issued for this project and are as follows:

<u>Addendum No.</u>	<u>Date</u>	<u>Pages</u>
Addendum No. 1	March 12, 2010	Eight (8) pages
Addendum No. 2	March 24, 2010	One Hundred Seven (107) pages
Addendum No. 3	March 30, 2010	Twelve (12) pages
Addendum No. 4	April 5, 2010	Fifty (50) pages

AFFIDAVIT IN SUPPORT OF MOTION TO DISMISS

STATE OF TEXAS §
COUNTY OF HIDALGO §

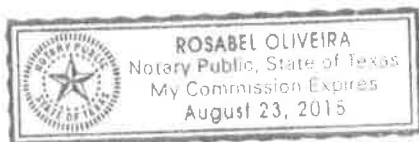
BEFORE ME the undersigned Notary Public, on this day personally appeared David L. Flores who being by me dully sworn on his oath deposed and said:

1. My name is David L. Flores. I am of sound mind and capable of making this affidavit, and I am personally acquainted with the facts stated in this affidavit.
2. I am an attorney licensed to practice law in the State of Texas. I practice with the Law Firm of Flores & Torres, L.L.P. in Hidalgo County, Texas. I am familiar with the standards for litigation practice in Hidalgo County, Texas and with the usual, customary and reasonable attorney's fees charged for legal representation in business and commercial litigation in Hidalgo County, Texas.
3. In this case our firm performed 12 hours of necessary work in preparing the Motion to Dismiss including the following reasonable and necessary legal services for our client, VCI Builders, Inc.: Research, document review, preparation of our answer and related motions, client conferences and insurance claim services. If the court conducts an oral hearing on the motion, I anticipate that an additional 4 hours of legal work will be needed to prepare for and participate in the hearing on the motion.
4. In my opinion, the usual, customary and reasonable hourly rate for attorney's services rendered in litigation similar to that involved in this case in Hidalgo County, Texas, by experienced lawyers is \$250 per hour.
5. In my opinion, attorney's fees in the amount of \$3,000.00 is reasonable in this case for the necessary legal services incurred in the trial court by VCI Builders, Inc., with respect to the challenged cause of action.



DAVID L. FLORES

SUBSCRIBED AND SWORN TO BEFORE ME on this the 11 day of May 2015.





Notary Public in and for the State of Texas

My Commission expires: Aug 23, 2015

THE HUDGINS LAW FIRM
A Professional Corporation

24 Greenway Plaza • Suite 2000 • Houston, Texas 77046
Tel 713-623-2550 • Fax 713-623-2793

STEPHANIE WEISS, LEGAL ASSISTANT
EMAIL: SWEISS@HUDGINS-LAW.COM

May 7, 2015

VIA E-FILING

Laura Hinojosa
Hidalgo County District Clerk
100 North Closner, First Floor
Edinburg, Texas 78539

Re: Cause No. C-5149-14-H
*Pharr San Juan Alamo Independent School District v. Texas Descon, L.P.,
Descon 4S, LLC and ERO International, LLP d/b/a ERO Architects*
In the 389th Judicial District Court, Hidalgo, Texas

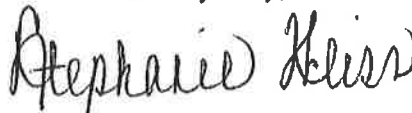
Dear Ms. Hinojosa:

I am requesting that the following citation be issued and served by the Hidalgo County Sheriff's office.

1. McAllen Carpet & Interiors, L.P., is a limited partnership which may be served with process through its registered agent, GJ Reyna, at 1001 E. Whitewing Avenue, Suite A, McAllen, Texas 78501.

Thank you for your attention to this matter and please call at your earliest convenience with any questions or comments.

Yours very truly,



Stephanie G. Weiss
Legal Assistant

/sgw



May 7, 2015

Page 2

c: Jesus Ramirez
Attorney at Law
700 Veterans Blvd., Suite B
San Juan, Texas 78589

VIA FACSIMILE (956) 502-5007

David P. Benjamin
Benjamin, Vana, Martinez & Biggs, LLP
2161 NW Military Highway, Suite 111
San Antonio, Texas 78213

VIA FACSIMILE (210) 881-0668

Sara Whittington Ma
Allensworth & Porter, LLP
100 N. Congress Avenue, Suite 100
Austin, Texas 78701

VIA FACSIMILE (512) 708 0519

C-5149-14-H
389TH DISTRICT COURT, HIDALGO COUNTY, TEXAS

CITATION

STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served with this citation and petition, a default judgment may be taken against you.

MCALLEN CARPET & INTERIORS, LP
BY SERVING REGISTERED AGENT: GJ REYNA
1001 E. WHITEWING AVENUE, SUITE A
MCALLEN, TEXAS 78501

You are hereby commanded to appear by filing a written answer to the **DEFENDANTS' THIRD-PARTY PETITION** on or before 10:00 o'clock a.m. on the Monday next after the expiration of twenty (20) days after the date of service hereof, before the **Honorable Letty Lopez, 389th District Court** of Hidalgo County, Texas at the Courthouse at 100 North Closner, Edinburg, Texas 78539.

Said petition was filed on this the 30th day of March, 2015 and a copy of same accompanies this citation. The file number and style of said suit being **C-5149-14-H, PHARR SAN JUAN ALAMO INDEPENDENT SCHOOL DISTRICT VS. TEXAS DESCON, L.P., DESCON 4S, L.L.C., ERO INTERNATIONAL, L.L.P. D/B/A ERO ARCHITECTS**

Said Petition was filed in said court by **ATTORNEY: SPENCER EDWARDS**
24 GREENWAY PLAZA, SUITE 2000 HOUSTON, TEXAS 77046.

The nature of the demand is fully shown by a true and correct copy of the petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at Edinburg, Texas on this the 11th day of May, 2015.

LAURA HINOJOSA, DISTRICT CLERK
HIDALGO COUNTY, TEXAS


CLAUDIA I. RODRIGUEZ, DEPUTY CLERK



C-5149-14-H
OFFICER'S RETURN

Came to hand on ____ of _____, 201____ at ____ o'clock ____m. and executed in _____ County, Texas by delivering to each of the within named Defendant in person, a true copy of this citation, upon which I endorsed the date of delivery to said Defendant together with the accompanying copy of the _____ (petition) at the following times and places, to-wit:

NAME	DATE	TIME	PLACE

And not executed as to the defendant, _____ the diligence used in finding said defendant, being: _____ and the cause of failure to execute this process is: _____ and the information received as to the whereabouts of said defendant, being: _____. I actually and necessarily traveled _____ miles in the service of this citation, in addition to any other mileage I may have traveled in the service of other process in the same case during the same trip.

Fees: serving ... copy(s) \$ _____
miles\$ _____

DEPUTY

**COMPLETE IF YOU ARE PERSON OTHER THAN A SHERIFF,
CONSTABLE OR CLERK OF THE COURT**

In accordance to Rule 107, the officer or authorized person who serves or attempts to serve a citation must sign the return. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return must either be verified or be signed under the penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is _____, my date of birth is _____ and the address is _____, and I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED in _____ County, State of Texas, on the ____ day of _____, 201____.

Declarant"

If Certified by the Supreme Court of Texas
Date of Expiration / SCH Number

CAUSE NO. C-5149-14-H

PHARR SAN JUAN ALAMO
INDEPENDENT SCHOOL DISTRICT
Plaintiff

vs.

TEXAS DESCON, L.P., DESCON 4S,
L.L.C. and ERO INTERNATIONAL,
L.L.P. d/b/a ERO ARCHITECTS
Defendants

§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

389TH JUDICIAL DISTRICT

HIDALGO COUNTY, TEXAS

SUBPOENA DUCES TECUM**THE STATE OF TEXAS****TO:** Any Sheriff; Constable; or any Person not less than 18 years old and not a Party:**ISSUANCE DATE:** April 16, 2015**YOU ARE COMMANDED** to serve this Subpoena forthwith by delivery to the following person:

Witness: Custodian of Records
Raba-Kistner Inc.
Address: 800 E. Hackberry Avenue
McAllen, Texas 78501

GREETINGS,**YOU ARE COMMANDED** to appear and testify in the above named proceeding at the following place and time:

Address: APEX Document Management
3217 West Alberta, Edinburg, Texas 78539

Date and Time: Friday, May 8, 2015 at 11:00 o'clock A.M.

YOU ARE COMMANDED TO BRING with you the following document(s) and object(s):

Any and all documents and test reports provided to Pharr San Juan Alamo Independent School District in connection with the PSJA ISD T-STEM Early College High School Phase I, Renovations and Additions project, Pharr, Hidalgo County, Texas, specifically relating to water infiltration/moisture content/compressive strength tests on concrete, dating from 2010 to 2011.

Subpoena issued on the request of: Pharr San Juan Alamo Independent School District

**Jesus Ramirez
700 North Veterans Boulevard, Suite B
San Juan, Texas 78589
Phone: 956/502-5424
Fax: 956/502-5007
Attorney for Pharr San Juan Alamo I.S.D.**

**Inquiries may be addressed to:
The J. Ramirez Law Firm**

This subpoena shall remain in effect until your are relieved by the court. A witness fee will be paid to you upon your appearance by the party requesting this subpoena. Failure to comply with this subpoena will subject you to the judicial powers of a Texas court, including contempt of court and being forcibly compelled to appear.

FAILURE BY ANY PERSON WITHOUT ADEQUATE EXCUSE TO OBEY A SUBPOENA SERVED UPON THAT PERSON MAY BE DEEMED A CONTEMPT OF THE COURT FROM WHICH THE SUBPOENA IS ISSUED OR A DISTRICT COURT IN THE COUNTY IN WHICH THE SUBPOENA IS SERVED, AND MAY BE PUNISHED BY FINE OR CONFINEMENT, OR BOTH.

Texas Rules of Civil Procedure, Rule 176.8 Enforcement of Subpoena.

(a) Contempt. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena is issued or a district court in the county in which the subpoena is served, and may be punished by fine or confinement, or both.

April 16, 2015

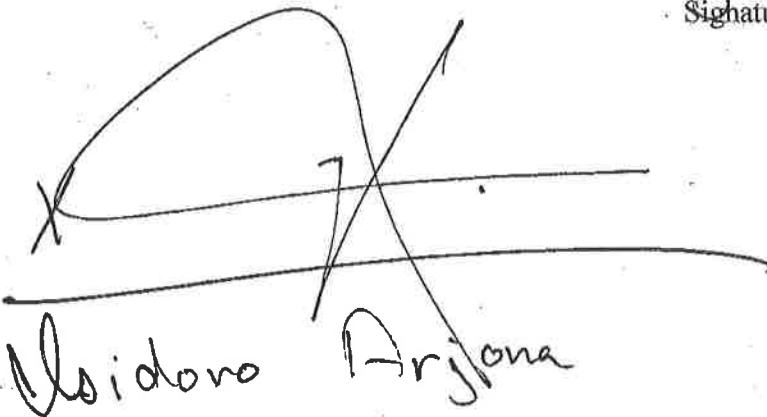
Date


**Jesus Ramirez, Attorney Issuing Subpoena
under Rule 176 of the Texas Rules of Civil Procedure**

RETURN ON SUBPOENA DUCES TECUM

I certify and return that I received the annexed *subpoena duces tecum* on April 16, 2015, at 10:30 a.m./p.m., and that I executed this *subpoena duces tecum* by delivering a copy to Rabe Kistner, at 800 E. Heckberry, Max Allen Jr. Hidalgo County, Texas, on the 16 day of April, 2015. My fee for the execution of this subpoena is \$ 60.00.

Signature



Osidoro Arjona

CAUSE NO. C-5149-14-H

PHARR SAN JUAN ALAMO
INDEPENDENT SCHOOL DISTRICT
Plaintiff

vs.

TEXAS DESCON, L.P., DESCON 4S,
L.L.C. and ERO INTERNATIONAL,
L.L.P. d/b/a ERO ARCHITECTS
Defendants

§
§
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IN THE DISTRICT COURT

389TH JUDICIAL DISTRICT

HIDALGO COUNTY, TEXAS

**NOTICE OF DEPOSITION ON WRITTEN QUESTIONS OF CUSTODIAN OF RECORDS FOR
RABA-KISTNER, INC.**

1. Pursuant to Rule 205, T.R.C.P., Movant Pharr San Juan Alamo I.S.D., Plaintiff in the above-captioned action, hereby gives notice of Deposition On Written Questions of the non-party listed below. The subpoena is issued under Rule 176.2(a) to be served on the following:

Witness: **Custodian of Records
Raba-Kistner, Inc.**

Address: **800 East Hackberry Ave.
McAllen, Texas 78501**

2. The place of deposition is 3217 West Alberta, Edinburg, Texas 78539 on the 8th day of May, 2015, at 11:00 A.M., as listed on the subpoena, unless alternate arrangements are made with the deposition officer, a notary public to be designated. If the witness proves to be uncooperative, Plaintiff may issue additional subpoenas for the witness or his representatives to appear at other locations.
3. A copy of this Notice is being served on the witness in compliance with Rule 205, T.R.C.P. concerning Discovery from Non-Parties.
4. A copy of this Notice is being served on all other attorneys or unrepresented parties of record. Pursuant to Rule 200, all other parties may timely serve cross-questions by sending copies to the undersigned, which will be propounded at the deposition. The direct questions are on the attached pages.
5. The transcript of the deposition upon written questions will be available from the undersigned for all other parties to inspect and/or copy, upon reasonable advanced notice.

Respectfully Submitted

THE J. RAMIREZ LAW FIRM

Attorneys at Law
Ebony Park, Suite B
700 North Veterans Boulevard
San Juan, Texas 78589
Phone: (956) 502-5424
Fax: (956) 502-5007

By:  _____

JESUS RAMIREZ

SBN 16501950

Email: ramirezbook@gmail.com

ROBERT SCHELL

SBN 24007992

Email: rschell@rg-legal.com

ATTORNEYS FOR PHARR SAN JUAN ALAMO
INDEPENDENT SCHOOL DISTRICT

CERTIFICATE OF SERVICE

I, JESUS RAMIREZ, certify that on the 16th day of April, 2015, the foregoing NOTICE OF DEPOSITION ON WRITTEN QUESTIONS OF CUSTODIAN OF RECORDS FOR RABA-KISTNER, INC. was served on the following:

Via Hand Delivery

Custodian of Records
RABA-KISTNER, INC.
800 East Hackberry Avenue
McAllen, Texas 78501

Via Certified Mail,

Return Receipt Requested No. 7014 1820 0001 6490 3969

and Email: mbc@aaplalaw.com

Matthew B. Cano
ALLENSWORTH AND PORTER, L.L.P.
100 Congress Avenue, Suite 700
Austin, Texas 78701

Via Certified Mail,

Return Receipt Requested No. 7014 1820 0001 6490 3976

and Email: sedwards@hudgins-law.com

Spencer Edwards
THE HUDGINS LAW FIRM
A PROFESSIONAL CORPORATION
24 Greenway Plaza, Suite 2000
Houston, Texas 77046

Via Certified Mail,

Return Receipt Requested No. 7014 1820 0001 6490 3983

and Email: dbenjamin@benlawsa.com

David P. Benjamin
BENJAMIN, VANA, MARTINEZ & BIGGS, LLP
2161 NW Military Highway, Suite 111
San Antonio, Texas 78213



JESUS RAMIREZ

**DIRECT WRITTEN QUESTIONS FOR CUSTODIAN OF RECORDS
FOR RABA-KISTNER, INC.**

1. Please state your full name for the record.
2. What is your connection, title, affiliation, and/or position with RABA-KISTNER, INC., now and in the past?
3. Did you receive a subpoena requesting documents? If yes, give all responsive documents to the Deposition Officer to be marked as "Exhibit 1."
4. Are the documents marked as "Exhibit 1" originals or true and correct copies of originals?
5. Were the documents marked as "Exhibit 1" documents made, generated, produced, or kept in the ordinary course of business?
6. Were the documents marked as "Exhibit 1" made at or near the time of the acts, events, conditions, or opinions to which they refer and were they made by and from information transmitted by a person with knowledge of the activity?
7. Were there any documents responsive to the subpoena duces tecum that you did not produce? If yes, list below any such documents not produced and state the reason for non-production.

SIGNED this _____ day of _____, 2015.

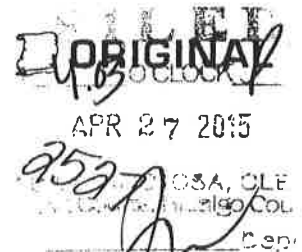
Affiant's Signature

Affiant's Address

C-5149-14-H
389TH DISTRICT COURT, HIDALGO COUNTY, TEXAS

CITATION

STATE OF TEXAS



NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served with this citation and petition, a default judgment may be taken against you.

MCALLEN CARPET & INTERIORS, LP
REGISTERED AGENT GJ REYNA
1200 E JASMIN AVE
MCALLEN TX 78501

You are hereby commanded to appear by filing a written answer to the **DEFENDANT'S THIRD PARTY PETITION** on or before 10:00 o'clock a.m. on the Monday next after the expiration of twenty (20) days after the date of service hereof, before the **Honorable Letty Lopez, 389th District Court** of Hidalgo County, Texas at the Courthouse at 100 North Closner, Edinburg, Texas 78539.

Said petition was filed on the on this the 14th day of May, 2014 and a copy of same accompanies this citation. The file number and style of said suit being C-5149-14-H, **PHARR SAN JUAN ALAMO INDEPENDENT SCHOOL DISTRICT VS. TEXAS DESCON, L.P., DESCON 4S, L.L.C., ERO INTERNATIONAL, L.L.P. D/B/A ERO ARCHITECTS**

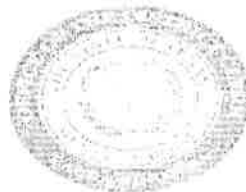
Said Petition was filed in said court by **SPENCER LAYNE EDWARDS; 24 GREENWAY PLAZA SUITE 2000 HOUSTON TX 77046-2444;**
The nature of the demand is fully shown by a true and correct copy of the petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at Edinburg, Texas on this the 10th day of April, 2015.

LAURA HINOJOSA, DISTRICT CLERK
HIDALGO COUNTY, TEXAS


PRISCILLA RIVAS, DEPUTY CLERK



**C-5149-14-H
OFFICER'S RETURN**

Came to hand on 10 of April, 2015 at 6:31 o'clock p.m. and executed in _____ County, Texas by delivering to each of the within named Defendant in person, a true copy of this citation, upon which I endorsed the date of delivery to said Defendant together with the accompanying copy of the _____ (petition) at the following times and places, to-wit:

NAME	DATE	TIME	PLACE

And not executed as to the defendant, G. J. Royne the diligence used in finding said defendant, being: No longer at address and the cause of failure to execute this process is: _____ and the information received as to the whereabouts of said defendant, being: _____. I actually and necessarily traveled _____ miles in the service of this citation, in addition to any other mileage I may have traveled in the service of other process in the same case during the same trip.

Fees: serving ... copy(s) \$ _____
miles\$ _____

Address is now Time Warner Company

W. Johnson 1525
DEPUTY

**COMPLETE IF YOU ARE PERSON OTHER THAN A SHERIFF,
CONSTABLE OR CLERK OF THE COURT**

In accordance to Rule 107, the officer or authorized person who serves or attempts to serve a citation must sign the return. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return must either be verified or be signed under the penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is _____, my date of birth is _____ and the address is _____, and I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED in _____ County, State of Texas, on the _____ day of _____, 2015.

Declarant"

**If Certified by the Supreme Court of Texas
Date of Expiration / SCH Number**

C-5149-14-H
389TH DISTRICT COURT, HIDALGO COUNTY, TEXAS

CITATION

STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served with this citation and petition, a default judgment may be taken against you.

MCALLEN CARPET & INTERIORS, LP
REGISTERED AGENT GJ REYNA
1200 E JASMIN AVE
MCALLEN TX 78501

You are hereby commanded to appear by filing a written answer to the **DEFENDANTS THIRD PARTY PETITION** on or before 10:00 o'clock a.m. on the Monday next after the expiration of twenty (20) days after the date of service hereof, before the **Honorable Letty Lopez, 389th District Court** of Hidalgo County, Texas at the Courthouse at 100 North Clossner, Edinburg, Texas 78539.

Said petition was filed on the on this the 14th day of May, 2014 and a copy of same accompanies this citation. The file number and style of said suit being C-5149-14-H, **PHARR SAN JUAN ALAMO INDEPENDENT SCHOOL DISTRICT VS. TEXAS DESCON, L.P., DESCON 4S, L.L.C., ERO INTERNATIONAL, L.L.P. D/B/A ERO ARCHITECTS**

Said Petition was filed in said court by SPENCER LAYNE EDWARDS; 24 GREENWAY PLAZA SUITE 2000 HOUSTON TX 77046-2444;
The nature of the demand is fully shown by a true and correct copy of the petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at Edinburg, Texas on this the 10th day of April, 2015.

LAURA HINOJOSA, DISTRICT CLERK
HIDALGO COUNTY, TEXAS


PRISCILLA RIVAS, DEPUTY CLERK



C-5149-14-H
OFFICER'S RETURN

Came to hand on _____ of _____, 201____ at _____ o'clock _____.m. and executed in _____ County, Texas by delivering to each of the within named Defendant in person, a true copy of this citation, upon which I endorsed the date of delivery to said Defendant together with the accompanying copy of the _____ (petition) at the following times and places, to-wit:

NAME	DATE	TIME	PLACE

And not executed as to the defendant, _____ the diligence used in finding said defendant, being: _____ and the cause of failure to execute this process is: _____ and the information received as to the whereabouts of said defendant, being: _____. I actually and necessarily traveled _____ miles in the service of this citation, in addition to any other mileage I may have traveled in the service of other process in the same case during the same trip.

Fees: serving ... copy(s) \$ _____
miles\$ _____

DEPUTY

**COMPLETE IF YOU ARE PERSON OTHER THAN A SHERIFF,
CONSTABLE OR CLERK OF THE COURT**

In accordance to Rule 107, the officer or authorized person who serves or attempts to serve a citation must sign the return. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return must either be verified or be signed under the penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is _____, my date of birth is _____ and the address is _____, and I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED in _____ County, State of Texas, on the _____ day of _____, 201____.

Declarant"

If Certified by the Supreme Court of Texas
Date of Expiration / SCH Number

C-5149-14-H
389TH DISTRICT COURT, HIDALGO COUNTY, TEXAS

CITATION

STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served with this citation and petition, a default judgment may be taken against you.

MCALLEN CARPET & INTERIORS, LP
REGISTERED AGENT GJ REYNA
1200 E JASMIN AVE
MCALLEN TX 78501

You are hereby commanded to appear by filing a written answer to the **DEFENDANTS THIRD PARTY PETITION** on or before 10:00 o'clock a.m. on the Monday next after the expiration of twenty (20) days after the date of service hereof, before the **Honorable Letty Lopez, 389th District Court** of Hidalgo County, Texas at the Courthouse at 100 North Clossner, Edinburg, Texas 78539.

Said petition was filed on the on this the 14th day of May, 2014 and a copy of same accompanies this citation. The file number and style of said suit being C-5149-14-H, **PHARR SAN JUAN ALAMO INDEPENDENT SCHOOL DISTRICT VS. TEXAS DESCON, L.P., DESCON 4S, L.L.C., ERO INTERNATIONAL, L.L.P. D/B/A ERO ARCHITECTS**

Said Petition was filed in said court by SPENCER LAYNE EDWARDS; 24 GREENWAY PLAZA SUITE 2000 HOUSTON TX 77046-2444;
The nature of the demand is fully shown by a true and correct copy of the petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at Edinburg, Texas on this the 10th day of April, 2015.

LAURA HINOJOSA, DISTRICT CLERK
HIDALGO COUNTY, TEXAS


PRISCILLA RIVAS, DEPUTY CLERK



C-5149-14-H
OFFICER'S RETURN

Came to hand on _____ of _____, 201____ at _____ o'clock _____.m. and executed in _____ County, Texas by delivering to each of the within named Defendant in person, a true copy of this citation, upon which I endorsed the date of delivery to said Defendant together with the accompanying copy of the _____ (petition) at the following times and places, to-wit:

NAME	DATE	TIME	PLACE

And not executed as to the defendant, _____ the diligence used in finding said defendant, being: _____ and the cause of failure to execute this process is: _____ and the information received as to the whereabouts of said defendant, being: _____. I actually and necessarily traveled _____ miles in the service of this citation, in addition to any other mileage I may have traveled in the service of other process in the same case during the same trip.

Fees: serving ... copy(s) \$ _____
 miles\$ _____

DEPUTY

**COMPLETE IF YOU ARE PERSON OTHER THAN A SHERIFF,
 CONSTABLE OR CLERK OF THE COURT**

In accordance to Rule 107, the officer or authorized person who serves or attempts to serve a citation must sign the return. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return must either be verified or be signed under the penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is _____, my date of birth is _____ and the address is _____, and I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED in _____ County, State of Texas, on the _____ day of _____, 201____.

Declarant"

If Certified by the Supreme Court of Texas
Date of Expiration / SCH Number

C-5149-14-H
389TH DISTRICT COURT, HIDALGO COUNTY, TEXAS

CITATION

APR 29 2015

STATE OF TEXAS

LAURA HINOJOSA, CLERK
District Court, Hidalgo County

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served with this citation and petition, a default judgment may be taken against you.

CHACHO'S RECYCLING
OWNER/ AUTHORIZED REPRESENTATIVE
DANIEL JOSH HAMMER
3820 S JACKSON RD
PHARR TX 78577

You are hereby commanded to appear by filing a written answer to the **DEFENDANTS' THIRD PARTY PETITION** on or before 10:00 o'clock a.m. on the Monday next after the expiration of twenty (20) days after the date of service hereof, before the **Honorable Letty Lopez, 389th District Court** of Hidalgo County, Texas at the Courthouse at 100 North Closner, Edinburg, Texas 78539.

Said petition was filed on the on this the 14th day of May, 2014 and a copy of same accompanies this citation. The file number and style of said suit being C-5149-14-H, **PHARR SAN JUAN ALAMO INDEPENDENT SCHOOL DISTRICT VS. TEXAS DESCON, L.P., DESCON 4S, L.L.C., ERO INTERNATIONAL, L.L.P. D/B/A ERO ARCHITECTS**

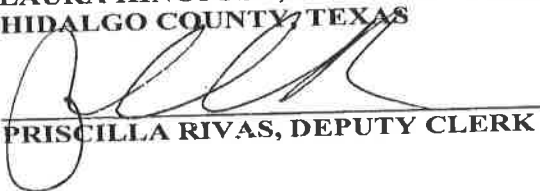
Said Petition was filed in said court by; SPENCER LAYNE EDWARDS 24 GREENWAY PLAZA SUITE 2000 HOUSTON TX 77046

The nature of the demand is fully shown by a true and correct copy of the petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at Edinburg, Texas on this the 10th day of April, 2015.

LAURA HINOJOSA, DISTRICT CLERK
HIDALGO COUNTY, TEXAS


PRISCILLA RIVAS, DEPUTY CLERK

**C-5149-14-H
OFFICER'S RETURN**

Came to hand on 16 of April, 201 5 at 12:19 o'clock P.m. and executed in Hidalgo County, Texas by delivering to each of the within named Defendant in person, a true copy of this citation, upon which I endorsed the date of delivery to said Defendant together with the accompanying copy of the Defendants Third Party Petition (petition) at the following times and places, to-wit:

D.O.B. 11-26-1984 TX DL 19129085

NAME	DATE	TIME	PLACE
<u>Daniel Josh Hammer</u>	<u>4-28-15</u>	<u>11:19 am</u>	<u>3820 S Jackson Rd</u>
<u>Dan Ham</u>			<u>Phar, TX 78577</u>

And not executed as to the defendant, _____ the diligence used in finding said defendant, being: _____ and the cause of failure to execute this process is: _____ and the information received as to the whereabouts of said defendant, being: _____. I actually and necessarily traveled _____ miles in the service of this citation, in addition to any other mileage I may have traveled in the service of other process in the same case during the same trip.

Fees: serving ... copy(s) \$ _____
miles\$ _____

J Unzu 3757

Eddie Guerra
Sheriff of Hidalgo
County Texas

DEPUTY

**COMPLETE IF YOU ARE PERSON OTHER THAN A SHERIFF,
CONSTABLE OR CLERK OF THE COURT**

In accordance to Rule 107, the officer or authorized person who serves or attempts to serve a citation must sign the return. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return must either be verified or be signed under the penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is _____, my date of birth is _____ and the address is _____, and I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED in _____ County, State of Texas, on the _____ day of _____, 201 ____.

Declarant"

**If Certified by the Supreme Court of Texas
Date of Expiration / SCH Number**

C-5149-14-H
389TH DISTRICT COURT, HIDALGO COUNTY, TEXAS

CITATION

STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served with this citation and petition, a default judgment may be taken against you.

CHACHO'S RECYCLING
OWNER/ AUTHORIZED REPRESENTATIVE
JOSH HAMMER
ROUTE 31 BOX 133 H-2
PHARR TX 78577

You are hereby commanded to appear by filing a written answer to the **DEFENDANTS' THIRD PARTY PETITION** on or before 10:00 o'clock a.m. on the Monday next after the expiration of twenty (20) days after the date of service hereof, before the **Honorable Letty Lopez, 389th District Court** of Hidalgo County, Texas at the Courthouse at 100 North Closner, Edinburg, Texas 78539.

Said petition was filed on the on this the 14th day of May, 2014 and a copy of same accompanies this citation. The file number and style of said suit being C-5149-14-H, **PHARR SAN JUAN ALAMO INDEPENDENT SCHOOL DISTRICT VS. TEXAS DESCON, L.P., DESCON 4S, L.L.C., ERO INTERNATIONAL, L.L.P. D/B/A ERO ARCHITECTS**

Said Petition was filed in said court by SPENCER LAYNE EDWARDS; 24 GREENWAY PLAZA SUITE 2000 HOUSTON TX 77046-2444;

The nature of the demand is fully shown by a true and correct copy of the petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at Edinburg, Texas on this the 10th day of April, 2015.

LAURA HINOJOSA, DISTRICT CLERK
HIDALGO COUNTY, TEXAS


PRISCILLA RIVAS, DEPUTY CLERK



C-5149-14-H
OFFICER'S RETURN

Came to hand on ____ of _____, 201____ at ____ o'clock ____ .m. and executed in _____ County, Texas by delivering to each of the within named Defendant in person, a true copy of this citation, upon which I endorsed the date of delivery to said Defendant together with the accompanying copy of the _____ (petition) at the following times and places, to-wit:

NAME	DATE	TIME	PLACE

And not executed as to the defendant, _____ the diligence used in finding said defendant, being: _____ and the cause of failure to execute this process is: _____ and the information received as to the whereabouts of said defendant, being: _____. I actually and necessarily traveled _____ miles in the service of this citation, in addition to any other mileage I may have traveled in the service of other process in the same case during the same trip.

Fees: serving ... copy(s) \$ _____
 miles\$ _____

DEPUTY

**COMPLETE IF YOU ARE PERSON OTHER THAN A SHERIFF,
 CONSTABLE OR CLERK OF THE COURT**

In accordance to Rule 107, the officer or authorized person who serves or attempts to serve a citation must sign the return. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return must either be verified or be signed under the penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is _____, my date of birth is _____ and the address is _____, and I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED in _____ County, State of Texas, on the ____ day of _____, 201____.

Declarant"

If Certified by the Supreme Court of Texas
Date of Expiration / SCH Number

C-5149-14-H
389TH DISTRICT COURT, HIDALGO COUNTY, TEXAS

CITATION

STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served with this citation and petition, a default judgment may be taken against you.

CHACHO'S RECYCLING
OWNER/ AUTHORIZED REPRESENTATIVE
JOSH HAMMER
ROUTE 31 BOX 133 H-2
PHARR TX 78577

You are hereby commanded to appear by filing a written answer to the **DEFENDANTS' THIRD PARTY PETITION** on or before 10:00 o'clock a.m. on the Monday next after the expiration of twenty (20) days after the date of service hereof, before the **Honorable Letty Lopez, 389th District Court** of Hidalgo County, Texas at the Courthouse at 100 North Closner, Edinburg, Texas 78539.

Said petition was filed on the on this the 14th day of May, 2014 and a copy of same accompanies this citation. The file number and style of said suit being C-5149-14-H, **PHARR SAN JUAN ALAMO INDEPENDENT SCHOOL DISTRICT VS. TEXAS DESCON, L.P., DESCON 4S, L.L.C., ERO INTERNATIONAL, L.L.P. D/B/A ERO ARCHITECTS**

Said Petition was filed in said court by SPENCER LAYNE EDWARDS; 24 GREENWAY PLAZA SUITE 2000 HOUSTON TX 77046-2444;

The nature of the demand is fully shown by a true and correct copy of the petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at Edinburg, Texas on this the 10th day of April, 2015.

LAURA HINOJOSA, DISTRICT CLERK
HIDALGO COUNTY, TEXAS


PRISCILLA RIVAS, DEPUTY CLERK



C-5149-14-H
OFFICER'S RETURN

Came to hand on ____ of _____, 201____ at ____ o'clock ____m. and executed in _____ County, Texas by delivering to each of the within named Defendant in person, a true copy of this citation, upon which I endorsed the date of delivery to said Defendant together with the accompanying copy of the _____ (petition) at the following times and places, to-wit:

NAME	DATE	TIME	PLACE

And not executed as to the defendant, _____ the diligence used in finding said defendant, being: _____ and the cause of failure to execute this process is: _____ and the information received as to the whereabouts of said defendant, being: _____. I actually and necessarily traveled _____ miles in the service of this citation, in addition to any other mileage I may have traveled in the service of other process in the same case during the same trip.

Fees: serving ... copy(s) \$ _____
miles\$ _____

DEPUTY

**COMPLETE IF YOU ARE PERSON OTHER THAN A SHERIFF,
CONSTABLE OR CLERK OF THE COURT**

In accordance to Rule 107, the officer or authorized person who serves or attempts to serve a citation must sign the return. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return must either be verified or be signed under the penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is _____, my date of birth is _____ and the address is _____, and I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED in _____ County, State of Texas, on the _____ day of _____, 201____.

Declarant"

If Certified by the Supreme Court of Texas
Date of Expiration / SCH Number

2532

ORIGINAL

AT 3:20 O'CLOCK P.M.

APR 17 2015

LAURA HINOJOSA, CLERK
District Court, Hidalgo County

Deputy

C-5149-14-H
389TH DISTRICT COURT, HIDALGO COUNTY, TEXAS

CITATION

STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served with this citation and petition, a default judgment may be taken against you.

VCI BUILDERS, INC.
REGISTERED AGENT JOSE LUIS ARREDONDO
217 W NOLANA STE 24
MCALLEN TX 78504

You are hereby commanded to appear by filing a written answer to the **DEFENDANTS' THIRD PARTY PETITION** on or before 10:00 o'clock a.m. on the Monday next after the expiration of twenty (20) days after the date of service hereof, before the **Honorable Letty Lopez, 389th District Court of Hidalgo County, Texas** at the Courthouse at 100 North Closner, Edinburg, Texas 78539.

Said petition was filed on the on this the 14th day of May, 2014 and a copy of same accompanies this citation. The file number and style of said suit being C-5149-14-H, **PHARR SAN JUAN ALAMO INDEPENDENT SCHOOL DISTRICT VS. TEXAS DESCON, L.P., DESCON 4S, L.L.C., ERO INTERNATIONAL, L.L.P. D/B/A ERO ARCHITECTS**

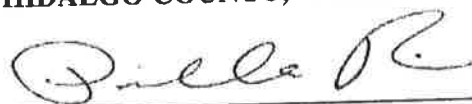
Said Petition was filed in said court by SPENCER LAYNE EDWARDS; 24 GREENWAY PLAZA SUITE 2000 HOUSTON TX 77046-2444;

The nature of the demand is fully shown by a true and correct copy of the petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at Edinburg, Texas on this the 10th day of April, 2015.

LAURA HINOJOSA, DISTRICT CLERK
HIDALGO COUNTY, TEXAS


PRISCILLA RIVAS, DEPUTY CLERK



**C-5149-14-H
OFFICER'S RETURN**

Came to hand on 10 of 4, 2015 at 4:31 o'clock P.m. and executed in Hidalgo County, Texas by delivering to each of the within named Defendant in person, a true copy of this citation, upon which I endorsed the date of delivery to said Defendant together with the accompanying copy of the to (petition) at the following times and places, to-wit:

NAME	DATE	TIME	PLACE
<u>Jose Luis Arredondo</u>	<u>4-16-15</u>	<u>11:23 AM</u>	<u>217 W. Nolan McCalla Tx</u>

And not executed as to the defendant, _____ the diligence used in finding said defendant, being: _____ and the cause of failure to execute this process is: _____ and the information received as to the whereabouts of said defendant, being: _____. I actually and necessarily traveled _____ miles in the service of this citation, in addition to any other mileage I may have traveled in the service of other process in the same case during the same trip.

Shirley Eddie Guerra
Fees: serving ... copy(s) \$ _____
miles\$ _____

Fernando Alvarez 4609

DEPUTY

**COMPLETE IF YOU ARE PERSON OTHER THAN A SHERIFF,
CONSTABLE OR CLERK OF THE COURT**

In accordance to Rule 107, the officer or authorized person who serves or attempts to serve a citation must sign the return. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return must either be verified or be signed under the penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is _____, my date of birth is _____ and the address is _____, and I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED in _____ County, State of Texas, on the _____ day of _____, 201____.

Declarant"

If Certified by the Supreme Court of Texas
Date of Expiration / SCH Number

X 

C-5149-14-H
389TH DISTRICT COURT, HIDALGO COUNTY, TEXAS

CITATION

STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served with this citation and petition, a default judgment may be taken against you.

VCI BUILDERS, INC.
REGISTERED AGENT JOSE LUIS ARREDONDO
217 W NOLANA STE 24
MCALLEN TX 78504

You are hereby commanded to appear by filing a written answer to the **DEFENDANTS' THIRD PARTY PETITION** on or before 10:00 o'clock a.m. on the Monday next after the expiration of twenty (20) days after the date of service hereof, before the **Honorable Letty Lopez, 389th District Court** of Hidalgo County, Texas at the Courthouse at 100 North Closner, Edinburg, Texas 78539.

Said petition was filed on the on this the 14th day of May, 2014 and a copy of same accompanies this citation. The file number and style of said suit being C-5149-14-H, **PHARR SAN JUAN ALAMO INDEPENDENT SCHOOL DISTRICT VS. TEXAS DESCON, L.P., DESCON 4S, L.L.C., ERO INTERNATIONAL, L.L.P. D/B/A ERO ARCHITECTS**

Said Petition was filed in said court by SPENCER LAYNE EDWARDS; 24 GREENWAY PLAZA SUITE 2000 HOUSTON TX 77046-2444;

The nature of the demand is fully shown by a true and correct copy of the petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at Edinburg, Texas on this the 10th day of April, 2015.

LAURA HINOJOSA, DISTRICT CLERK
HIDALGO COUNTY, TEXAS



PRISCILLA RIVAS, DEPUTY CLERK



C-5149-14-H
OFFICER'S RETURN

Came to hand on ____ of _____, 201____ at ____ o'clock ____m. and executed in _____ County, Texas by delivering to each of the within named Defendant in person, a true copy of this citation, upon which I endorsed the date of delivery to said Defendant together with the accompanying copy of the _____ (petition) at the following times and places, to-wit:

NAME	DATE	TIME	PLACE

And not executed as to the defendant, _____ the diligence used in finding said defendant, being: _____ and the cause of failure to execute this process is: _____ and the information received as to the whereabouts of said defendant, being: _____. I actually and necessarily traveled _____ miles in the service of this citation, in addition to any other mileage I may have traveled in the service of other process in the same case during the same trip.

Fees: serving ... copy(s) \$ _____
miles\$ _____

DEPUTY

**COMPLETE IF YOU ARE PERSON OTHER THAN A SHERIFF,
CONSTABLE OR CLERK OF THE COURT**

In accordance to Rule 107, the officer or authorized person who serves or attempts to serve a citation must sign the return. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return must either be verified or be signed under the penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is _____, my date of birth is _____ and the address is _____, and I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED in _____ County, State of Texas, on the ____ day of _____, 201____.

Declarant"

If Certified by the Supreme Court of Texas
Date of Expiration / SCH Number

C-5149-14-H
389TH DISTRICT COURT, HIDALGO COUNTY, TEXAS

CITATION

STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served with this citation and petition, a default judgment may be taken against you.

VCI BUILDERS, INC.
REGISTERED AGENT JOSE LUIS ARREDONDO
217 W NOLANA STE 24
MCALLEN TX 78504

You are hereby commanded to appear by filing a written answer to the **DEFENDANTS' THIRD PARTY PETITION** on or before 10:00 o'clock a.m. on the Monday next after the expiration of twenty (20) days after the date of service hereof, before the **Honorable Letty Lopez, 389th District Court** of Hidalgo County, Texas at the Courthouse at 100 North Closner, Edinburg, Texas 78539.

Said petition was filed on the on this the 14th day of May, 2014 and a copy of same accompanies this citation. The file number and style of said suit being C-5149-14-H, **PHARR SAN JUAN ALAMO INDEPENDENT SCHOOL DISTRICT VS. TEXAS DESCON, L.P., DESCON 4S, L.L.C., ERO INTERNATIONAL, L.L.P. D/B/A ERO ARCHITECTS**

Said Petition was filed in said court by SPENCER LAYNE EDWARDS; 24 GREENWAY PLAZA SUITE 2000 HOUSTON TX 77046-2444;

The nature of the demand is fully shown by a true and correct copy of the petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at Edinburg, Texas on this the 10th day of April, 2015.

LAURA HINOJOSA, DISTRICT CLERK
HIDALGO COUNTY, TEXAS



PRISCILLA RIVAS, DEPUTY CLERK



C-5149-14-H
OFFICER'S RETURN

Came to hand on ____ of _____, 201____ at ____ o'clock ____m. and executed in _____ County, Texas by delivering to each of the within named Defendant in person, a true copy of this citation, upon which I endorsed the date of delivery to said Defendant together with the accompanying copy of the _____ (petition) at the following times and places, to-wit:

NAME	DATE	TIME	PLACE

And not executed as to the defendant, _____ the diligence used in finding said defendant, being: _____ and the cause of failure to execute this process is: _____ and the information received as to the whereabouts of said defendant, being: _____. I actually and necessarily traveled _____ miles in the service of this citation, in addition to any other mileage I may have traveled in the service of other process in the same case during the same trip.

Fees: serving ... copy(s) \$ _____
miles\$ _____

DEPUTY

**COMPLETE IF YOU ARE PERSON OTHER THAN A SHERIFF,
CONSTABLE OR CLERK OF THE COURT**

In accordance to Rule 107, the officer or authorized person who serves or attempts to serve a citation must sign the return. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return must either be verified or be signed under the penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is _____, my date of birth is _____ and the address is _____, and I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED in _____ County, State of Texas, on the ____ day of _____, 201____.

Declarant"

If Certified by the Supreme Court of Texas
Date of Expiration / SCH Number

THE HUDGINS LAW FIRM
A Professional Corporation

24 Greenway Plaza • Suite 2000 • Houston, Texas 77046
Tel 713-623-2550 • Fax 713-623-2793

STEPHANIE WEISS, LEGAL ASSISTANT
EMAIL: SWEISS@HUDGINS-LAW.COM

April 6, 2015

VIA E-FILING

Laura Hinojosa
Hidalgo County District Clerk
100 North Closner, First Floor
Edinburg, Texas 78539

Re: Cause No. C-5149-14-H
*Pharr San Juan Alamo Independent School District v. Texas Descon, L.P.,
Descon 4S, LLC and ERO International, LLP d/b/a ERO Architects*
In the 389th Judicial District Court, Hidalgo, Texas

Dear Ms. Hinojosa:

I am requesting that the following citations be issued and served by the Hidalgo County Sheriff's office.

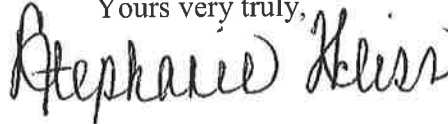
1. McAllen Carpet & Interiors, L.P., is a limited partnership which may be served with process through its registered agent, GJ Reyna, at 1200 E. Jasmin Avenue, McAllen, Texas 78501.
2. Chacho's Recycling is an unincorporated business association located in Hidalgo County, Texas. Defendant Chacho's Recycling is being sued in its common or assumed name pursuant to TEX. R. CIV. P. 28. Defendant Chacho's Recycling can be served with process through its owner/authorized representative, Josh Hammer, at Route 31, Box 133 H-2, Pharr, Texas 78577.
3. VCI Builders, Inc. is a Texas corporation which may be served with process through its registered agent, Jose Luis Arredondo, at 217 W. Nolana, Suite 24, McAllen, Texas 78504.



April 6, 2015
Page 2

Thank you for your attention to this matter and please call at your earliest convenience with any questions or comments.

Yours very truly,



Stephanie G. Weiss
Legal Assistant

/sgw

c: Jesus Ramirez
Attorney at Law
700 Veterans Blvd., Suite B
San Juan, Texas 78589

VIA FACSIMILE (956) 502-5007

David P. Benjamin
Benjamin, Vana, Martinez & Biggs, LLP
2161 NW Military Highway, Suite 111
San Antonio, Texas 78213

VIA FACSIMILE (210) 881-0668

Sara Whittington Ma
Allensworth & Porter, LLP
100 N. Congress Avenue, Suite 100
Austin, Texas 78701

VIA FACSIMILE (512) 708 0519

CAUSE NO. C-5149-14-H

PHARR SAN JUAN ALAMO
INDEPENDENT SCHOOL DISTRICT
Plaintiff

VS.

TEXAS DESCON, L.P., DESCON 4S,
L.L.C. and ERO INTERNATIONAL, L.L.P.
D/BA ERO ARCHITECTS
Plaintiff§
§
§
§
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IN THE DISTRICT COURT

389TH JUDICIAL DISTRICT

HIDALGO COUNTY, TEXAS

DEFENDANTS' THIRD-PARTY PETITION

COME NOW Defendants, Texas Descon, L.P. and Descon 4S, L.L.C. ("Defendants"), in the above-styled and numbered cause, and files this Third-Party Petition in accordance with Texas Rule of Civil Procedure 38 and would respectfully show unto the Court the following:

1. Defendants file this Third-Party Petition against the following Third-Party Defendants:

- a. McAllen Carpet & Interiors, L.P., is a limited partnership which may be served with process through its registered agent, GJ Reyna, at 1200 E. Jasmin Avenue, McAllen, Texas 78501, or anywhere else he may be found.
- b. Chacho's Recycling is an unincorporated business association located in Hidalgo County, Texas. Defendant Chacho's Recycling is being sued in its common or assumed name pursuant to TEX. R. CIV. P. 28. Defendant Chacho's Recycling can be served with process through its owner/authorized representative, Josh Hammer, at Route 31, Box 133 H-2, Pharr, Texas 78577, or anywhere else he may be found.

c. VCI Builders, Inc. is a Texas corporation which may be served with process through its registered agent, Jose Luis Arredondo, at 217 W. Nolana, Suite 24, McAllen, Texas 78504, or anywhere else he may be found.

2. Venue is proper in Hidalgo County, Texas pursuant to Sections 15.002 and 15.062 of the Texas Civil Practice and Remedies Code.

3. Although Defendants are unaware of what damages it will incur, if any. However, for purposes of pleading under Rule 47 of the Texas Rules of Civil Procedure, Defendants seeks monetary relief over \$200,000 but not more than \$1,000,000. Damages sought are within the jurisdictional limits of the Court.

4. Plaintiff, Pharr San Juan Alamo Independent School District ("PSJA"), filed suit against Defendants alleging breach of contract, negligence, negligent misrepresentation, and gross negligence against Defendants in connection with Defendants' work on PSJA's Memorial Middle School campus (the "Project"). PSJA alleges that Defendants' caused damage during the demolition phase and improperly installed flooring.

5. Defendants contracted with McAllen Carpet & Interiors, L.P. to provide flooring of the existing structures at the Project site.

6. Defendants deny and continue to deny PSJA's allegations related to the flooring. However, in the unlikely event Defendants are found held liable for and of PSJA's alleged damages, Defendants contend that such damages were proximately caused by McAllen Carpet & Interiors, L.P.

7. Further, Defendants contracted with Chacho's Recycling and VCI Builders, Inc. to provide demolition of the existing structures at the Project site.

8. Defendants deny and continue to deny PSJA's allegations related to the demolition. However, in the unlikely event Defendants are found held liable for and of PSJA's alleged damages, Defendants contend that such damages were proximately caused by

9. Defendants incorporates by reference each of the factual allegations recited in the preceding paragraphs. There are valid, enforceable contracts between Defendants and the Third Party Defendants. In the unlikely event that Defendants are found to be liable to PSJA, Defendants assert that Third Party Defendants materially breached the contracts with Defendants by their acts and omissions, resulting in damages.

10. In the unlikely event that Defendants are found to be liable to PSJA, Defendants assert that the Third Party Defendants are liable to it for contribution for any damages owed or paid by Defendants to PSJA. Specifically, Defendants assert that it has not caused damages to PSJA, but if judgment is rendered that any damages were proximately caused by Defendants, then Defendants asserts that such damages were caused by the acts and omissions of the Third Party Defendants. Therefore, Defendants request that any damages awarded against it be reimbursed by the Third Party Defendants in this action in accordance with Chapter 33 of the Texas Civil Practice and Remedies Code.

11. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendants request that Third Party Defendants disclose, within 50 days of service of this request, the information and material described in Rule 194.2(a)-(l).

WHEREFORE, PREMISES CONSIDERED, Defendants Texas Descon, L.P. and Descon 4S, L.L.C. request judgment and relief from the Third Party Defendants, McAllen Carpet & Interiors, L.P., Chacho's Recycling and VCI Builders, Inc. for the above causes of action and for such other relief to which Defendants may be justly entitled in law and in equity.

Respectfully submitted,

**THE HUDGINS LAW FIRM
A PROFESSIONAL CORPORATION**

By: /s/ Spencer Edwards
Spencer Edwards
State Bar Number 90001513
sedwards@hudsons-law.com
24 Greenway Plaza, Suite 2000
Houston, Texas 77046
Telephone (713) 623-2550
Facsimile (713) 623-2793

**ATTORNEY FOR DEFENDANTS TEXAS
DESCON, LP AND DESCON, 4S, L.L.C.**

CERTIFICATE OF SERVICE

I certify that the foregoing *Defendants' Third Party Petition* was served on the following counsel:

Jesus Ramirez
Attorney at Law
700 Veterans Blvd., Suite B
San Juan, Texas 78589

David P. Benjamin
Benjamin, Vana, Martinez & Biggs, LLP
2161 NW Military Highway, Suite 111
San Antonio, Texas 78213

Sara Whittington May
Allensworth & Porter, LLP
100 N. Congress Avenue, Suite 100
Austin, Texas 78701

via e-filing on the 30th of March, 2015 and via facsimile on the 31st day of March 2015.

/s/ Spencer Edwards
Spencer Edwards

CAUSE NO. C-5149-14-H

PHARR SAN JUAN ALAMO
INDEPENDENT SCHOOL DISTRICT

VS.

TEXAS DESCON, LP, DESCON 4S, LLC
AND ERO INTERNATIONAL, LLP D/B/A
ERO ARCHITECTS§
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IN THE DISTRICT COURT OF

HIDALGO COUNTY, TEXAS

389TH JUDICIAL DISTRICT

ORDER GRANTING MOTION TO SUBSTITUTE COUNSEL

On this date, came on for consideration, Defendants' Motion to Substitute Counsel. After due consideration, the Court is of the opinion that it should be GRANTED. It is, therefore,

ORDERED that Spencer Edwards of The Hudgins Law Firm, A Professional Corporation, 24 Greenway Plaza, Suite 2000, Houston, Texas 77046, is hereby designated as attorney in charge for Defendants Texas Descon, LP and Descon 4S, LLC as set forth in TEX. R. Civ. P. 8.

SIGNED this 12 day of MARCH

2015.


JUDGE PRESIDING

c: Jesus Ramirez
Attorney at Law
700 Veterans Blvd., Suite B
San Juan, Texas 78589
ramirezbook@gmail.com

David P. Benjamin
Benjamin, Vana, Martinez & Briggs, LLP
2161 NW Military Highway, Suite 111
San Antonio, Texas 78213
dbenjamin@benlawsa.com

Sara Whittington May
Allensworth & Porter, LLP
100 N. Congress Avenue, Suite 100
Austin, Texas 78701
swm@aaplalaw.com

Stephanie L. O'Rourke
Cokinos, Bosien & Young
10999 West IH-10, Suite 800
San Antonio, Texas 78230
sorourke@cbylaw.com

Spencer Edwards
The Hudgins Law Firm
24 Greenway Plaza, Suite 2000
Houston, Texas 77046
sedwards@hudgins-law.com

CAUSE NO. C-5149-14-H

PHARR SAN JUAN ALAMO
INDEPENDENT SCHOOL DISTRICT

VS.

TEXAS DESCON, LP, DESCON 4S, LLC
AND ERO INTERNATIONAL, LLP D/B/A
ERO ARCHITECTS§
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§
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§
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IN THE DISTRICT COURT OF

HIDALGO COUNTY, TEXAS

389TH JUDICIAL DISTRICT

**MOTION TO SUBSTITUTE COUNSEL FOR
DEFENDANTS TEXAS DESCON, LP AND DESCON 4S, LLC**

COME NOW Defendants Texas Descon, LP and Descon 4S, LLC and move the Court to substitute Spencer Edwards of The Hudgins Law Firm, A Professional Corporation, 24 Greenway Plaza, Suite 2000, Houston, Texas 77046, as their attorney of record in lieu of Stephanie L. O'Rourke, Cokinos, Bosien & Young, 10999 West IH-10, Suite 800, San Antonio, Texas 78230, counsel of record for Defendants Texas Descon, LP and Descon 4S, LLC. This Motion is not sought for delay and no parties will be prejudiced by this substitution.

Respectfully submitted,

COKINOS, BOSIEN & YOUNGBy: /s/ Stephanie L. O'Rourke

Stephanie L. O'Rourke

State Bar Number 15310800

sorourke@cbylaw.com

10999 West IH-10, Suite 800

San Antonio, Texas 78230

Telephone (210) 293-8700

Facsimile (210) 293-8733

**WITHDRAWING ATTORNEY FOR
DEFENDANTS TEXAS DESCON, LP AND
DESCON 4S, LLC**

**THE HUDGINS LAW FIRM
A PROFESSIONAL CORPORATION**

By: /s/ Spencer Edwards
Spencer Edwards
State Bar Number 90001513
sedwards@hudgins-law.com
24 Greenway Plaza, Suite 2000
Houston, Texas 77046
Telephone (713) 623-2550
Facsimile (713) 623-2793

**SUBSTITUTING ATTORNEY FOR
DEFENDANTS TEXAS DESCON, LP AND
DESCON 4S, LLC**

CERTIFICATE OF CONFERENCE

I certify that I have conferred with counsel for Plaintiff, Defendant ERO International, LLP d/b/a ERO Architects, Third Party Defendant Frank Lam & Associates, Inc., and Third Party Defendant Frank S. Lam, P.E., and the foregoing parties are unopposed to the relief sought by way of this motion.

/s/ Spencer Edwards
Spencer Edwards

CERTIFICATE OF SERVICE

I certify that the foregoing *Motion to Substitute Counsel for Defendants Texas Descon, LP and Descon 4S, LLC* was served on the following counsel:

Jesus Ramirez
Attorney at Law
700 Veterans Blvd., Suite B
San Juan, Texas 78589

David P. Benjamin
Benjamin, Vana, Martinez & Biggs, LLP
2161 NW Military Highway, Suite 111
San Antonio, Texas 78213

Sara Whittington May
Allensworth & Porter, LLP
100 N. Congress Avenue, Suite 100
Austin, Texas 78701

Stephanie L. O'Rourke
Cokinos, Bosien & Young
10999 West IH-10, Suite 800
San Antonio, Texas 78230

via facsimile on the 10th day of March 2015.

/s/ Spencer Edwards
Spencer Edwards

CAUSE NO. C-5149-14-H

PHARR SAN JUAN ALAMO
INDEPENDENT SCHOOL DISTRICT
Plaintiff

vs.

TEXAS DESCON, L.P., DESCON 4S,
L.L.C. and ERO INTERNATIONAL,
L.L.P. d/b/a ERO ARCHITECTS
Defendants

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IN THE DISTRICT COURT

HIDALGO COUNTY, TEXAS

389th JUDICIAL DISTRICT

**PLAINTIFF, PHARR SAN JUAN ALAMO INDEPENDENT SCHOOL DISTRICT'S
CERTIFICATE OF WRITTEN DISCOVERY**


I certify that on the 26th day of February, 2015, I served the following discovery instruments on opposing counsel of record by via certified mail, return receipt requested, pursuant to the Texas Rules of Civil Procedure:

1. Plaintiff's Responses to Request for Disclosure from Defendant Frank Lam & Associates, Inc.'s Request for Disclosure;
2. Plaintiff's Second Supplemental Responses to Request for Disclosure from Defendant ERO International, LLP d/b/a ERO Architects;
3. Plaintiff's Second Supplemental Responses to Request for Disclosure from Defendant Texas Descon, LP; and
4. Plaintiff's Second Supplemental Responses to Request for Disclosure from Defendant Descon 4S, LLC.

Respectfully submitted,

THE J. RAMIREZ LAW FIRM

Attorneys at Law
Ebony Park, Suite B
700 North Veterans Boulevard
San Juan, Texas 78589
Phone: (956) 502-5424
Fax: (956) 502-5007

By: 
JESUS RAMIREZ
SBN 16501950
ROBERT SCHELL
SBN 24007992

ATTORNEYS FOR DEFENDANT
PHARR SAN JUAN ALAMO
INDEPENDENT SCHOOL DISTRICT

CERTIFICATE OF SERVICE

I, JESUS RAMIREZ, certify that on the 26th day of February, 2015, a true and correct copy of the foregoing **PLAINTIFF PHARR SAN JUAN ALAMO INDEPENDENT SCHOOL DISTRICT'S CERTIFICATE OF WRITTEN DISCOVERY** was served via certified U.S. Mail, return receipt requested on the following counsel of record:

Via Certified Mail,

Return Receipt Requested No. 7014 1820 0001 6490 3372

and Email: mbc@aaplalaw.com

Matthew B. Cano
ALLENSWORTH AND PORTER, L.L.P.
100 Congress Avenue, Suite 700
Austin, Texas 78701

Via Certified Mail,

Return Receipt Requested No. 7014 1820 0001 6490 3389

and Email: sedwards@hudgetins-law.com

Spencer Edwards
THE HUDGINS LAW FIRM
A PROFESSIONAL CORPORATION
24 Greenway Plaza, Suite 2000
Houston, Texas 77046

Via Certified Mail,

Return Receipt Requested No. 7014 1820 0001 6490 3396

and Email: sorourke@cbvlaw.com

Stephanie O'Rourke
COKINOS, BOSIEN & YOUNG
10999 IH-10 West, Suite 800
San Antonio, Texas 78230

Via Certified Mail,

Return Receipt Requested No. 7014 1820 0001 6490 3402

and Email: dbenjamin@benlawsa.com

David P. Benjamin
BENJAMIN, VANA, MARTINEZ & BIGGS, LLP
2161 NW Military Highway, Suite 111
San Antonio, Texas 78213


JESUS RAMIREZ

CAUSE NO. C-5149-14-H

PHARR SAN JUAN ALAMO	§	IN THE DISTRICT COURT
INDEPENDENT SCHOOL DISTRICT	§	
<i>Plaintiff</i>	§	
	§	
vs.	§	389th JUDICIAL DISTRICT
	§	
TEXAS DESCON, L.P., DESCON 4S,	§	
L.L.C. AND ERO INTERNATIONAL,	§	
LLP D/B/A ERO ARCHITECTS	§	
<i>Defendants</i>	§	HIDALGO COUNTY, TEXAS

ORIGINAL ANSWER OF FRANK LAM & ASSOCIATES, INC.
AND FRANK S. LAM, P.E.

Third-Party Defendants Frank Lam & Associates, Inc. and Frank S. Lam, P.E. (collectively "Lam") file this their original answer to ERO International, L.L.P. d/b/a ERO Architects' ("ERO") Third-Party Petition and would show this Honorable Court the following:

I. GENERAL DENIAL

1. Third-Party Defendants Frank Lam & Associates, Inc. and Frank S. Lam, P.E. generally deny the allegations made by Third-Party Plaintiff ERO in its Third-Party Petition.

II. VERIFIED DENIAL

2. Frank S. Lam, P.E., specifically denies that he entered into any contractual relationship with Third-Party Plaintiff ERO. To the contrary, Third-Party Plaintiff ERO entered into a contract with Frank Lam & Associates, Inc., to perform design services with regard to the Project. As such, Frank S. Lam, P.E. denies that he is liable in the

capacity in which he has been sued, as set forth in his Affidavit, which is attached hereto and incorporated as Exhibit 1.

III. AFFIRMATIVE DEFENSES

3. Third-Party Plaintiff ERO's contribution claim is barred by the Economic Loss Rule.

4. Third-Party Defendants Lam further state that the acts or omissions of parties not under the control of Frank Lam & Associates, Inc. may have caused, or contributed to cause, the damages alleged by Third-Party Plaintiff. Any submission of this case to the jury should include a submission for comparative fault under Chapters 32 and 33 of the Texas Civil Practice and Remedies Code.

II. SPECIAL EXCEPTIONS

5. Lam specially excepts to the use of the term "Engineers" throughout Third-Party Plaintiff's petition. As an example, Third-Party Plaintiff alleges in Paragraph V, section (a) that "Engineers materially breached the contract with ERO." The contracts between ERO and Frank Lam & Associates, Inc. do not create any contractual agreement on behalf of Frank S. Lam, P.E., individually. Third-Party Plaintiff should be required to replead, as the constant use of the term "Engineers" without identifying which one, or both, of the third-party defendants is alleged to have committed an act, is vague and fails to give Lam fair notice of which allegations are alleged to have been committed by each.

WHEREFORE, PREMISES CONSIDERED, Third-Party Defendants Frank Lam & Associates, Inc. and Frank S. Lam, P.E. pray that upon final hearing of this cause that

Third-Party Plaintiff ERO takes nothing and that it recover its costs, and such other and further relief to which it may be entitled.

Respectfully submitted,

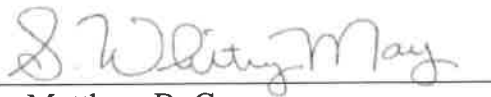
ALLENSWORTH AND PORTER, L.L.P.

100 Congress Avenue, Suite 700

Austin, Texas 78701

(512) 708-1250 Telephone

(512) 708-0519 Facsimile

By: 

Matthew B. Cano

State Bar No. 03757050

mbc@aapl原因.com

S.W. "Whitney" May

State Bar No. 24074668

swm@aapl原因.com

***ATTORNEYS FOR THIRD-PARTY
DEFENDANTS FRANK S. LAM, P.E. AND
FRANK LAM & ASSOCIATES, INC.***

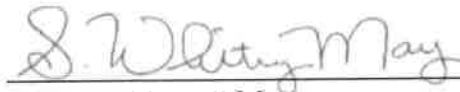
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been sent via e-mail on the 13th day of February 2015, to the following:

Jesus Ramirez
Robert Schell
The J. Ramirez Law Firm
Attorneys at Law
Ebony Park, Suite B
700 North Veterans Boulevard
San Juan, Texas 78589
ramirezbook@gmail.com
robert_schell@hotmail.com

Brian D. Metcalf
Stephanie O'Rourke
Cokinos, Bosien & Young
10999 IH 10 West, Suite 800
San Antonio, Texas 78230
bmetcalf@cbylaw.com
sorourke@cbylaw.com

David P. Benjamin
Christopher D. McMillan
2161 NW Military Highway, Suite 111
San Antonio, Texas 78213
dbenjamin@benlawsa.com
cmcmillan@benlawsa.com



S.W. "Whitney" May

CAUSE NO. C-5149-14-H

PHARR SAN JUAN ALAMO	§	IN THE DISTRICT COURT
INDEPENDENT SCHOOL DISTRICT	§	
<i>Plaintiff</i>	§	
	§	
vs.	§	389th JUDICIAL DISTRICT
	§	
TEXAS DESCON, L.P., DESCON 4S,	§	
L.L.C. AND ERO INTERNATIONAL,	§	
LLP D/B/A ERO ARCHITECTS	§	
<i>Defendants</i>	§	HIDALGO COUNTY, TEXAS

AFFIDAVIT OF FRANK S. LAM, P.E.

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

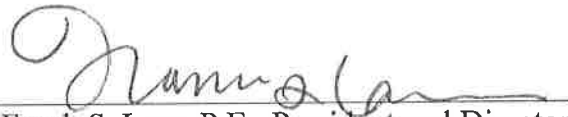
Before me, the undersigned notary, on this day personally appeared Frank Lam, a person whose identity is known to me. After I administered an oath to him and upon his oath he said:

1. "My name is Frank S. Lam, P.E. I am the President and Director of Frank Lam & Associates, Inc. I am over 18 years of age, of sound mind, and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.
2. "ERO International, LLP d/b/a ERO Architects has improperly sued me in my individual capacity. I am not liable in the capacity in which I have been sued. All of the design services provided to ERO International, LLP d/b/a ERO Architects were performed by Frank Lam & Associates, Inc. under the contracts between Frank Lam & Associates, Inc. and ERO International, LLP

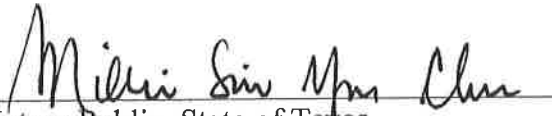
d/b/a ERO Architects. ERO International, LLP d/b/a ERO Architects issued all of its payments for services performed under the contracts to Frank Lam & Associates, Inc. Additionally, all of my interactions and communications with ERO International, LLP d/b/a ERO Architects were in my capacity as a President and Director of Frank Lam & Associates, Inc., and not in my individual capacity."

FURTHER AFFIANT SAYETH NOT.

FRANK LAM & ASSOCIATES, INC.

By: 
Frank S. Lam, P.E., President and Director

SUBSCRIBED AND SWORN TO BEFORE ME by Frank S. Lam on the 12th day of February 2015, to certify which witness my hand and official seal.


Notary Public, State of Texas

My Commission Expires:



CAUSE NO. C-5149-14-H

**PHARR SAN JUAN ALAMO
INDEPENDENT SCHOOL DISTRICT**
Plaintiff

vs.

**TEXAS DESCON, L.P., DESCON 4S,
L.L.C. and ERO INTERNATIONAL,
L.L.P. d/b/a ERO ARCHITECTS**
Defendants

§
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IN THE DISTRICT COURT

HIDALGO COUNTY, TEXAS

389TH JUDICIAL DISTRICT

AGREED DOCKET CONTROL AND SCHEDULING ORDER

BE IT REMEMBERED that on the 23rd day of September, 2014, a Docket Control Conference was held in the above entitled and numbered cause. Appearances were made by counsel of record and/or their designated representatives.

The following was ordered by the Court as per agreement of the parties' Attorneys of Record:


- A. The case is set for jury selection and trial on **October 19, 2015 at 9:00 a.m.**
- B. The case is set for Announcements and Final Pre-Trial on **October 15, 2015 at 9:00 a.m.**
- C. The deadline to file Motions in Limine is **October 15, 2015 at 8:30 a.m.**
- D. The deadline to file any Daubert/Robinson motion, challenge or objection is **October 15, 2015 at 8:30 a.m.**
- E. The deadline to amend pleadings without leave of the court is **October 12, 2015.**
- F. A Joint Final Pretrial Order approved as to form by all parties must be filed by **October 1, 2015.**
- G. Mediation shall be conducted no later than **September 18, 2015.**
- H. The deadline for completion of all discovery, including supplementation, is **September 18, 2015.**

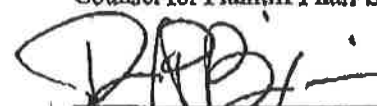
- I. **Deadline for designation of experts and Rule 192.4(f) information for parties seeking affirmative relief other than contribution claims or third party claims is June 19, 2015.**
- J. **Deadline for designation of experts and Rule 192.4(f) information for all other parties is July 17, 2015.**
- K. **The deadline for joinder of additional parties without leave of the court is March 13, 2015. All other deadlines are pursuant to the Texas Rules of Civil Procedure.**
- L. **The parties may amend deadlines by agreement, except trial date, which may only be passed by a joint continuance motion of all parties and approved by Order of the Court. At the commencement of trial, the parties must submit to the court coordinator their respective proposed charge of the court on computer disc formatted in WordPerfect or Microsoft Word. Each side shall serve their requested special issues and live pleadings at the time of Final Pretrial or immediately prior to commencement of trial.**

Signed this 5 day of February, 2015.


Presiding Judge

Approved:


Jesus Ramirez
THE J. RAMIREZ LAW FIRM
Attorneys at Law
Ebony Park, Suite B
700 North Veterans Boulevard
San Juan, Texas 78589
Counsel for Plaintiff Pharr San Juan Alamo I.S.D.


David D. Benjamin
BENJAMIN, VANA, MARTINEZ & BIGGS, LLP
2161 NW Military Highway, Suite 111
San Antonio, Texas 78213
Counsel for ERO International, LLP d/b/a ERO Architects


Stephanie O'Rourke
COKINOS, BOSIEN & YOUNG
10999 IH-10 West, Suite 800
San Antonio, Texas 78230
Counsel for Texas Descon, L.P. and Descon 4S, L.L.C.

The clerk will notify all parties of record.

cc: David P. Benjamin, BENJAMIN, VANA, MARTINEZ & BIGGS, LLP, 2161 NW Military Highway, Suite 111,
San Antonio, Texas 78213, Email: dgbenjamin@benlawson.com

Stephanie O'Rourke, COKINOS, BOSIEN & YOUNG, 10999 IH-10 West, San Antonio, Texas 78230,
Email: sorourke@cbylaw.com

Jesus Ramirez, THE J. RAMIREZ LAW FIRM, Ebony Park, Suite B, 700 North Veterans Boulevard, San Juan, Texas 78589,
Email: jramirezbook@gmail.com

C-5149-14-H
389TH DISTRICT COURT, HIDALGO COUNTY, TEXAS

CITATION

STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served with this citation and petition, a default judgment may be taken against you.

FRANK LAM & ASSOCIATES, INC
BY SERVING REGISTERED AGENT: FRANK LAM
508 W. 16TH ST
AUSTIN TX 78701
OR WHEREVER ELSE HE MAY BE FOUND

You are hereby commanded to appear by filing a written answer to the **ERO INTERNATIONAL, LLP D/B/A/ ERO ARCHITECTS' THIRD-PARTY PETITION** on or before 10:00 o'clock a.m. on the Monday next after the expiration of twenty (20) days after the date of service hereof, before the **Honorable Letty Lopez, 389th District Court** of Hidalgo County, Texas at the Courthouse at 100 North Closner, Edinburg, Texas 78539.

Said petition was filed on the on this the 14th day of May, 2014 and a copy of same accompanies this citation. The file number and style of said suit being **C-5149-14-H, PHARR SAN JUAN ALAMO INDEPENDENT SCHOOL DISTRICT VS. TEXAS DESCON, L.P., DESCON 4S, L.L.C., ERO INTERNATIONAL, L.L.P. D/B/A ERO ARCHITECTS**

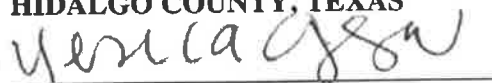
Said Petition was filed in said court by: **DAVID BENJAMIN**
2161 NW Military Highway, Suite 111 SAN ANTONIO TEXAS 78213

The nature of the demand is fully shown by a true and correct copy of the petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at Edinburg, Texas on this the 22nd day of January, 2015.

LAURA HINOJOSA, DISTRICT CLERK
HIDALGO COUNTY, TEXAS


YESICA GARZA, DEPUTY CLERK



**C-5149-14-H
OFFICER'S RETURN**

Came to hand on ____ of _____, 201____ at ____ o'clock ____m. and executed in _____ County, Texas by delivering to each of the within named Defendant in person, a true copy of this citation, upon which I endorsed the date of delivery to said Defendant together with the accompanying copy of the _____ (petition) at the following times and places, to-wit:

NAME	DATE	TIME	PLACE

And not executed as to the defendant, _____ the diligence used in finding said defendant, being: _____ and the cause of failure to execute this process is: _____ and the information received as to the whereabouts of said defendant, being: _____. I actually and necessarily traveled _____ miles in the service of this citation, in addition to any other mileage I may have traveled in the service of other process in the same case during the same trip.

Fees: serving ... copy(s) \$ _____
miles\$ _____

DEPUTY**COMPLETE IF YOU ARE PERSON OTHER THAN A SHERIFF,
CONSTABLE OR CLERK OF THE COURT**

In accordance to Rule 107, the officer or authorized person who serves or attempts to serve a citation must sign the return. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return must either be verified or be signed under the penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is _____, my date of birth is _____ and the address is _____, and I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED in _____ County, State of Texas, on the _____ day of _____, 201____.

**AFFIDAVIT
ATTACHED****Declarant"**

**If Certified by the Supreme Court of Texas
Date of Expiration / SCH Number**

CAUSE NO. C-5149-14-H

STYLE: Pharr San Juan Alamo Independent School District V. Texas Descon, L.P.,
Descon 4S, L.L.C., Ero International, L.L.P. D/B/A Ero Architects

COURT: 389th District Court of Hidalgo County, Texas

AFFIDAVIT

Came to my hand: 1 / 23 / 2015 at 12:00 o'clock P.M.

X Citation and Ero International, LLP d/b/a Ero Architects' Third-Party Petition

Executed by me on: 1 / 26 / 2015 at 1:50 o'clock P.M.

Executed at 508 West 16th Street, Austin, Texas 78701, within the county of Travis, by delivering to Frank Lam & Associates, Inc., by serving registered agent Frank Lam in person, a true copy of the above specified civil process having first endorsed on such copy the date of delivery.

I am over the age of 18; and I am not a party to nor interested in the outcome of the above styled and numbered suit.

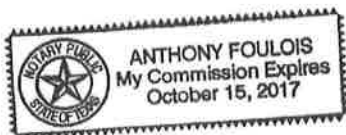
Authorized Person: [Signature]

Printed Name: Chris Datto
SCH#: 6008 Expiration: 11-30-2015
Magee Litigation Support
20770 US 281 North, #108-177
San Antonio, TX 78258
(830) 980-2500

State of Texas }

VERIFICATION

Before me, a notary public, on this day personally appeared the above name person, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements/ facts therein contained are within his/her personal knowledge to be true and correct. Given under my hand and seal of office on this the 27th day of January, 2015.



[Signature]
Notary Public Signature

C-5149-14-H
389TH DISTRICT COURT, HIDALGO COUNTY, TEXAS

CITATION

STATE OF TEXAS

NOTICE TO DEFENDANT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served with this citation and petition, a default judgment may be taken against you.

FRANK S. LAM, P.E
508 W. 16TH ST
AUSTIN TX 78701
OR WHEREVER ELSE HE MAY BE FOUND

You are hereby commanded to appear by filing a written answer to the **ERO INTERNATIONAL, LLP D/B/A/ ERO ARCHITECTS' THIRD-PARTY PETITION** on or before 10:00 o'clock a.m. on the Monday next after the expiration of twenty (20) days after the date of service hereof, before the **Honorable Letty Lopez, 389th District Court** of Hidalgo County, Texas at the Courthouse at 100 North Closser, Edinburg, Texas 78539.

Said petition was filed on the on this the 14th day of May, 2014 and a copy of same accompanies this citation. The file number and style of said suit being **C-5149-14-H, PHARR SAN JUAN ALAMO INDEPENDENT SCHOOL DISTRICT VS. TEXAS DESCON, L.P., DESCON 4S, L.L.C., ERO INTERNATIONAL, L.L.P. D/B/A ERO ARCHITECTS**

Said Petition was filed in said court by: **DAVID BENJAMIN**
2161 NW Military Highway, Suite 111 SAN ANTONIO TEXAS 78213

The nature of the demand is fully shown by a true and correct copy of the petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at Edinburg, Texas on this the 22nd day of January, 2015.

LAURA HINOJOSA, DISTRICT CLERK
HIDALGO COUNTY, TEXAS


YESICA GARZA, DEPUTY CLERK



Electronically Filed
 2/3/2015 11:44:20 AM
 Hidalgo County District Clerks
 Reviewed By: Claudia Rodriguez

**C-5149-14-H
 OFFICER'S RETURN**

Came to hand on ____ of _____, 201____ at ____ o'clock ____m. and executed in _____ County, Texas by delivering to each of the within named Defendant in person, a true copy of this citation, upon which I endorsed the date of delivery to said Defendant together with the accompanying copy of the _____ (petition) at the following times and places, to-wit:

NAME	DATE	TIME	PLACE

And not executed as to the defendant, _____ the diligence used in finding said defendant, being: _____ and the cause of failure to execute this process is: _____ and the information received as to the whereabouts of said defendant, being: _____. I actually and necessarily traveled _____ miles in the service of this citation, in addition to any other mileage I may have traveled in the service of other process in the same case during the same trip.

Fees: serving ... copy(s) \$ _____
 miles\$ _____

DEPUTY

**COMPLETE IF YOU ARE PERSON OTHER THAN A SHERIFF,
 CONSTABLE OR CLERK OF THE COURT**

In accordance to Rule 107, the officer or authorized person who serves or attempts to serve a citation must sign the return. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return must either be verified or be signed under the penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is _____, my date of birth is _____ and the address is _____, and I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED in _____ County, State of Texas, on the ____ day of _____, 201____.

 Declarant"

**AFFIDAVIT
 ATTACHED**

**If Certified by the Supreme Court of Texas
 Date of Expiration / SCH Number**

Electronically Filed
2/3/2015 11:44:20 AM
Hidalgo County District Clerks
Reviewed By: Claudia Rodriguez

CAUSE NO. C-5149-14-H

STYLE: Pharr San Juan Alamo Independent School District V. Texas Descon, L.P.,
Descon 4S, L.L.C., Ero International, L.L.P. D/B/A Ero Architects

COURT: 389th District Court of Hidalgo County, Texas

AFFIDAVIT

Came to my hand: 1 / 23 / 2015 at 12:00 o'clock P.M.

X Citation and Ero International, LLP d/b/a Ero Architects' Third-Party Petition

Executed by me on: 1 / 26 / 2015 at 1:50 o'clock P.M.

Executed at 508 West 16th Street, Austin, Texas 78701, within the county of Travis, by
delivering to Frank Lam in person, a true copy of the above specified civil process having
first endorsed on such copy the date of delivery.

I am over the age of 18; and I am not a party to nor interested in the outcome of the above
styled and numbered suit.

Authorized Person: [Signature]

Printed Name: Chris Dath

SCH#: 6008 Expiration: 11-30-2015

Magee Litigation Support

20770 US 281 North, #108-177

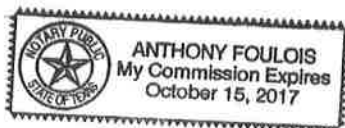
San Antonio, TX 78258

(830) 980-2500

State of Texas }

VERIFICATION

Before me, a notary public, on this day personally appeared the above name person, known to me to be the
person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared
that the statements/ facts therein contained are within his/her personal knowledge to be true and correct.
Given under my hand and seal of office on this the 27th day of January, 2015.



[Signature]
Notary Public Signature

CAUSE NO. C-5149-14-H

PHARR SAN JUAN ALAMO
INDEPENDENT SCHOOL DISTRICT
Plaintiff

VS.

TEXAS DESCON, L.P., DESCON 4S,
L.L.C. and ERO INTERNATIONAL, L.L.P.
D/BA ERO ARCHITECTS
Plaintiff

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IN THE DISTRICT COURT

389TH JUDICIAL DISTRICT

HIDALGO COUNTY, TEXAS

ERO INTERNATIONAL, LLP D/B/A/ ERO ARCHITECTS' THIRD-PARTY PETITION**TO THE HONORABLE COURT:**

NOW COMES Defendant, ERO International, L.L.P. d/b/a ERO Architects ("ERO"), Defendant in the above-styled and numbered cause, and files this Third-Party Petition in accordance with Texas Rule of Civil Procedure 38 and would respectfully show unto the Court the following:

I.

1. ERO files this Third-Party Petition against the following Third-Party Defendants:
 - a. Frank Lam & Associates, Inc., a Texas for-profit corporation, which may be served with process through its registered agent, Frank Lam, 508 W. 16th St., Austin, Texas 78701 or wherever else he may be found; and
 - b. Frank S. Lam, P.E., a licensed professional engineer in the State of Texas who may be served at 508 W. 16th St., Austin, Texas 78701 or wherever else he may be found.

II.

2. Venue is proper in Hidalgo County, Texas pursuant to Sections 15.002 and 15.062 of the Texas Civil Practice and Remedies Code.

III.

3. Although ERO is unaware of what damages it will incur, if any. However, for purposes of pleading under Rule 47 of the Texas Rules of Civil Procedure, ERO seeks monetary relief over \$200,000 but not more than \$1,000,000. Damages sought are within the jurisdictional limits of the Court.

IV.

4. Plaintiff, Pharr San Juan Alamo Independent School District ("PSJA"), filed suit against ERO alleging breach of contract, negligence, negligent misrepresentation, and gross negligence against ERO in connection with ERO's work on PSJA's Memorial Middle School campus (the "Project"). PSJA alleges that ERO's acts and/or omissions resulted in the "toppling of large portions of the west wall and second story floor of the mail classroom building, the moisture infiltration to the basement floor and the additional cost of completion of the textbook storage facility and band hall."

5. Specifically, PSJA alleges ERO failed to undertake a more thorough investigation of the structural integrity and conditions of the facilities; failed to advise PSJA during the design phases of the Project of ERO's alleged lack of sufficient information to design and specify the Project; failed to adequately inspect and test the structures; failed to require and review a submittal for proper demolition means and methods; and failed to design improvements/additions to the existing structures which would have been appropriate and feasible.

6. ERO contracted with Frank Lam & Associates, Inc. and Frank S. Lam, P.E. (hereinafter referred to together as the "Engineers") to provide a structural engineering report including an evaluation of the existing structures at the Project site, determine issues related to the renovations

of the existing buildings, and provide recommendations for the structural systems for the Project's renovations, additions and new construction.

7. ERO denies and continues to deny PSJA's allegations. However, in the unlikely event ERO is found held liable for and of PSJA's alleged damages, ERO contends that such damages were proximately caused by the Engineers.

V.

a. **Breach of Contract.** ERO incorporates by reference each of the factual allegations recited in the preceding paragraphs. There is a valid, enforceable contract between ERO and the Engineers. In the unlikely event that ERO is found to be liable to PSJA, ERO asserts the Engineers materially breached the contract with ERO by its acts and omissions, resulting in damages.

b. **Contribution.** In the unlikely event that ERO is found to be liable to PSJA, ERO asserts that the Engineers are liable to it for contribution for any damages owed or paid by ERO to PSJA. Specifically, ERO asserts that it has not caused damages to PSJA, but if judgment is rendered that any damages were proximately caused by ERO, then ERO asserts that such damages were caused by the acts and omissions of the Engineers. Therefore, ERO requests that any damages awarded against it be reimbursed by the Engineers in this action in accordance with Chapter 33 of the Texas Civil Practice and Remedies Code.

VI.

6. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, ERO requests that the Engineers disclose, within 50 days of service of this request, the information and material described in Rule 194.2(a)-(l).

WHEREFORE, PREMISES CONSIDERED, ERO requests judgment and relief from the Engineers for the above causes of action and for such other relief to which ERO may be justly entitled in law and in equity.

Respectfully submitted,

BENJAMIN, VANA, MARTINEZ & BIGGS, LLP

By: /s/ Christopher McMillan

David P. Benjamin

State Bar No. 02134375

Christopher D. McMillan

State Bar No. 24085467

2161 NW Military Highway, Suite 111

San Antonio, TX 78213

Telephone: (210) 881-0667

Facsimile: (210) 881-0668

E-Mail: dbenjamin@benlawsa.com

E-Mail: cmcmillan@benlawsa.com

**COUNSEL FOR DEFENDANT,
ERO INTERNATIONAL, L.L.P.
D/B/A ERO ARCHITECTS**

CERTIFICATE OF SERVICE

This is to certify that a true, full and correct copy of the above and foregoing has, this 14th day of January 2015, been delivered per the Texas Rules of Civil Procedure to:

Jesus Ramirez
Robert Schell
The J. Ramirez Law Firm
Attorneys at Law
Ebony Park, Suite B
700 North Veterans Boulevard
San Juan, Texas 78589

Brian D. Metcalf
Cokinos, Bosien & Young
1099 IH 10 West, Suite 800
San Antonio, Texas 78230

/s/ Christopher McMillan

David P. Benjamin/Christopher D. McMillan

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IN THE DISTRICT COURT

HIDALGO COUNTY, TEXAS

389th JUDICIAL DISTRICT

Page 1 of 3

Respectfully submitted,

THE J. RAMIREZ LAW FIRM

Attorneys at Law
Ebony Park, Suite B
700 North Veterans Boulevard
San Juan, Texas 78589
Phone: (956) 502-5424
Fax: (956) 502-5007

By: _____

JESUS RAMIREZ

SBN 16501950

ROBERT SCHELL

SBN 24007992

ATTORNEYS FOR PLAINTIFF
PHARR SAN JUAN ALAMO
INDEPENDENT SCHOOL DISTRICT

CERTIFICATE OF SERVICE

I, JESUS RAMIREZ, certify that on the 17th day of November, 2014, a true and correct copy of the foregoing **PLAINTIFF PHARR SAN JUAN ALAMO INDEPENDENT SCHOOL DISTRICT'S WRITTEN CERTIFICATE OF DISCOVERY** was served via certified U.S. Mail, return receipt requested and via Email on the following counsel of record:

Via Certified Mail,

Return Receipt Requested No. 7014 1820 0001 6490 3013

and Email: sorourke@cbylaw.com

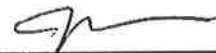
Stephanie O'Rourke
COKINOS, BOSIEN & YOUNG
10999 IH-10 West, Suite 800
San Antonio, Texas 78230

Via Certified Mail,

Return Receipt Requested No. 7014 1820 0001 6490 3020

and Email: dbenjamin@benlawsa.com

David P. Benjamin
BENJAMIN, VANA, MARTINEZ & BIGGS, LLP
2161 NW Military Highway, Suite 111
San Antonio, Texas 78213



JESUS RAMIREZ

Page 1 of 2

CERTIFICATE OF SERVICE

I, ROBERT SCHELL, certify that on the 20th day of October, 2014, a true and correct copy of the foregoing Plaintiff Pharr San Juan Alamo Independent School District's Written Certificate of Discovery was served via certified U.S. Mail, return receipt requested and via Email on the following counsel of record:

Via Certified Mail,

Return Receipt Requested No. 7014 1820 0001 6490 2603

and Email: dbenjamin@benlawsa.com

David P. Benjamin
BENJAMIN, VANA, MARTINEZ & BIGGS, LLP
2161 NW Military Highway, Suite 111
San Antonio, Texas 78213

Via Certified Mail,

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ROBERT SCHELL

CAUSE NO. C-5149-14-H

PHARR - SAN JUAN - ALAMO	§	IN THE DISTRICT COURT
INDEPENDENT SCHOOL DISTRICT	§	
	§	
VS.	§	389TH JUDICIAL DISTRICT COURT
	§	
TEXAS DESCON, L.P., DESCON 4S, L.L.C.	§	HIDALGO COUNTY, TEXAS
AND ERO INTERNATIONAL, L.L.P.		
DBA ERO ARCHITECTS		

DOCKET CONTROL ORDER

BE IT REMEMBERED that on this 23rd day of September, 2014 a Docket Control Conference was held in the above entitled and numbered cause. Appearances were made by Atty Jesus Ramirez; Atty Stephanie O'Rourke and Atty David P. Benjamin.

The following was ordered by the Court:

A. Final Pre-Trial Conference is set for the 15th day of October, 2015, at 9:00 a.m.

ALL MOTIONS IN LIMINE SHALL BE FILED AND HEARD AT FINAL PRE-TRIAL
EACH SIDE SHALL SUBMIT THEIR REQUESTED SPECIAL ISSUES AS WELL AS A COPY OF THEIR LIVE PLEADINGS ON FINAL PRE-TRIAL DATE OR IMMEDIATELY PRIOR TO TRIAL

B. The deadline for completion of all discovery including supplementation are pursuant to the Texas Rules Of Civil Procedure.

C. The deadline for supplemental and amended pleading are pursuant to the Texas Rules Of Civil Procedure.

D. The deadline for joinder of additional parties are pursuant to the Texas Rules Of Civil Procedure.

E. Mediation is hereby ordered to be conducted no later than thirty days before trial date. **This is Mandatory.**

F. Joint Pre-Trial Order approved as to form by all attorneys shall be filed 14 days before the final pretrial conference scheduled by the court. The Joint Pretrial Order shall contain the information set out in Appendix A. **See Attached Order.**

G. The case is set for Trial on the 19th day of October, 2015 at 9:00 a.m.

H. The case is estimated to last One (1) week.